

**Minutes
Williamson County
Board of Zoning Appeals
7:00 P.M. April 25, 2013**

Members Present

Dave Ausbrooks, Chairman
Steve Wherley, Co-Chairman
Don Crohan, Secretary
Sue Workman
Karen Emerson-McPeak

Staff Present

Lee Sanders
Linda Hodges
Brenda Midgett
Aaron Holmes
Floyd Heflin
Kristi Ransom, County Attorney

The Williamson County Board of Zoning Appeals met in regular session on April 25, 2013 in the Auditorium of the Williamson County Administrative Complex. Chairman Dave Ausbrooks began the meeting by reading a public statement stating that the Board of Zoning Appeals is made up of five citizens nominated as Board members by the County Mayor and confirmed by the County Commission. One member is a Planning Commissioner, one member may be a County Commissioner and the remaining members are not otherwise connected with County Government. He went on to say the Board will hear from anyone who has anything to say to the Board relevant to the request at hand. However, the Board will not view or hear anything that does not have a direct bearing on the item or issue being heard. He requested that all comments be addressed to the Board.

Chairman Ausbrooks then asked the members to consider the minutes of the February 28, 2013 and March 28, 2013 meetings. Steve Wherley made a motion to approve the February 28, 2013 minutes. Don Crohan seconded the motion. The motion was unanimously approved by voice vote. Don Crohan made a motion to approve the March 28, 2013 minutes. Steve Wherley seconded the motion. The motion was unanimously approved by voice vote.

The Board agreed to hear Item 2 before Item 1 Old Business.

ITEM 2

A request by Clare H. Nugent (property owner) for a Special Use approval of a “group child care home” (Fern Top Nature Preschool) at 7731 Fernvale Road. The property is zoned Rural Preservation 5 and is located in the 1st district.

Aaron Holmes of the Planning Department read the staff report and reviewed the background documentation (see agenda report). Mr. Holmes advised that Sewage Disposal Management has approved the request. Mr. Sanders presented to the Board members a letter from an adjoining property owner giving their support for the request. He then displayed a site plan using the overhead projector and pointed out to the Board the adjoining properties. Mr. Sanders stated that the driveway must be dust free and therefore the applicant has agreed to pave the driveway. He stated this is a complete Special Use request that meets all the conditions of the zoning ordinance.

Ms. Nugent represented the item. She stated she wants to provide the community an alternative to child care for pre-school age children. She plans to provide a curriculum based program three days a week at her small farm and home.

Chairman Ausbrooks opened the public hearing.

Cindy Sharpton (address not given) stated she supports what Ms. Nugent is doing.

Angie McPherson, a friend of Ms. Nugent's, of 7833 Fernvale Road stated she supports the request also.

There being no one else to speak, Chairman Ausbrooks closed the public hearing.

Don Crohan asked the applicant about training of a helper and her intentions of supplying medical help.

Ms. Nugent stated she will have employees with at least a CDA (Child Development Accreditation). She stated she has worked in school systems in the Boston area and therefore has school training. Ms. Nugent stated Brenda Henderson of the State Department of Human Services and the Fire Marshall have approved this site. She stated she will provide education and not just child care service.

Steve Wherley asked the applicant if the well water is tested.

County Attorney Kristi Ransom stated that is part of the State's review.

Don Crohan made a motion to approve the Special Use request stating it met the requirements of Section 5.01 and Section 11.04 (D) with the stipulations that the Group Child Care Home must meet the site plan requirements and also the criteria of signage per recommendations of staff. Sue Workman seconded the motion. Motion was approved by unanimous voice vote.

ITEM 1 – Old Business

A request by Attorney Gerald Patterson (Michael & Nikki Greenburg, property owners) for a variance to allow agricultural use structures in flood zone. The property is zoned SIC (Suburban Infill & Conservation) and is located at 2864 Sawyer Bend Road in the 8th district.

Linda Hodges read the staff report and reviewed the background documentation (see agenda report). Mr. Sanders displayed a site plan using the overhead projector and pointed out to the Board the adjoining properties. He stated this item was deferred, with the applicant's consent, from the February 28th meeting. Mr. Sanders stated the applicant has submitted additional information for the Board to review. He noted that the County Engineer and Flood Administrator, Floyd Heflin, is present to answer questions of the Board regarding this Item.

Attorney Gerald Patterson and property owner Michael Greenburg represented this Item. Mr. Patterson stated that in the opinion of engineer James Armstrong the flood impact analysis showed the structures do not cause significant impact, so therefore variances can be granted for these structures. Mr. Patterson reviewed the affidavit of James Huddleston regarding the valuation of the barn. Mr. Patterson stated the applicant feels that the barn has no impact on flood levels. He stated that if the applicant is required to place the structures away from the river, the applicants would essentially have to abandon their dressage operations on the property.

Chairman Ausbrooks opened the meeting to the public. There being no one to speak, he closed the public hearing.

Chairman Ausbrooks asked staff to explain the requirements of re-constructing the barn within the original footprint.

County Engineer Floyd Heflin stated that if the owners had only remodeled up to 50%, of the original value of the barn, they would not be required to flood proof the structure. However, the owners exceeded the 50% threshold; and therefore, the barn needs flood venting of the walls and floodproofing.

Karen Emerson-McPeak asked staff if the barn could have been built in front of house.

Mr. Sanders answered yes, the barn could have been built in the side, rear or front yard since this is an agricultural structure.

Don Crohan asked staff if a permit for the barn would have been approved for remodeling the pre-existing barn.

Floyd Heflin answered yes, and if the value of the improvements exceeded 50% flood proofing the bottom floor would be required.

Chairman Ausbrooks asked staff which shed was in the floodway.

Mr. Heflin stated the #2 run-in shed is in the floodway.

Karen-Emerson McPeak asked staff if Williamson County is stricter than the FEMA regulations in regards to personal safety and structures in the floodplain.

Floyd Heflin stated that Williamson County is more stringent regarding structures in the floodzone.

Chairman Ausbrooks asked the applicant how complete the construction to the barn is.

Mr. Greenburg stated the only thing remaining to complete for the barn is for the installation of a septic system and siding for the office.

Chairman Ausbrooks stated he was disappointed that the owner got approval for a pool, but did not get approval or permits for all the sheds and the addition to the barn. He felt that the #1 shed in floodplain needs to be vented and the #2 shed and the tractor shed in the floodzone needs to be removed.

Mr. Greenburg stated he met with Planning, Codes and Engineering staff members in the conference room regarding the dressage court. He stated he met with Floyd Heflin a second time regarding the dressage court and was not informed about limitations for new structures.

Floyd Heflin stated that the County originally issued a permit for an uncovered structure for a dressage court. He stated he sent the zoning certificate response to the attorney, Mr. Patterson, which included the requirements for permits for other structures.

Mr. Patterson stated the neighbors would not approve of structures in the front yard and asked the Board to be sympathetic to their requests to allow the structures to remain in place.

Don Crohan stated he agreed that the barn needed repair. However, he went on to state that he does not feel that the hardship meets the conditions for a variance since there were other locations out of the floodplain to place the structures.

Chairman Ausbrooks asked if the Board was ready to make a motion on the five items listed in the request.

The following five motions were made by the Board members:

1. Don Crohan made a motion to deny the request for variance for the addition to the barn because it does not meet the requirements of Sections 13.05 and 5.02 of the zoning ordinance and due to the safety of people and the animals in the barn and because it was a self-made hardship due to permits not being obtained and other locations available. He stated the barn should be brought back into compliance by returning it to the original footprint and to meet standards of Codes that are required. Steve Wherley seconded the motion. Motion was approved by unanimous voice vote.

Chairman Ausbrooks then asked for consideration of Item 2.

2. Don Crohan made a motion to deny the request for a variance for the hay shed and for applicant to remove or move the shed to a different site out of the floodplain, stating that it does not meet the requirements of Sections 13.05 and 5.02 of the zoning ordinance and due to other locations available. Steve Wherley seconded the motion. Motion was approved by unanimous voice vote.

Chairman Ausbrooks then asked for consideration of Item 3.

3. Don Crohan made a motion to deny the request for a variance for the tractor shed in the floodplain and it must be removed or moved to a different site out of the floodplain. He stated it does not meet the requirements of Sections 13.05 and 5.02 of the zoning ordinance. Steve Wherley seconded the motion. Motion was approved by unanimous voice vote.

Chairman Ausbrooks then asked for consideration of Item 4.

4. Don Crohan made a motion to deny the request for a variance for the run-in shed, stating that it does not meet the requirements of Sections 13.05 and 5.02 of the zoning ordinance. He stated the fencing and the shed need to be moved out of the floodway (sic) because there are other places to locate it out of the floodplain. Steve Wherley seconded the motion. Discussion was held on the motion. Chairman Ausbrooks expressed his concern that if the ordinance is going to allow horses in the floodplain, there should be some provision for a shelter such as a run-in shed that can be built to meet floodproof requirements. Motion was approved by 4-1 vote. Chairman Ausbrooks asked for a show of hands and voted against the motion.

Chairman Ausbrooks then asked for consideration of Item 5.

5. Don Crohan made a motion to deny the request for a variance for run-in shed #2. He stated it does not meet the requirements of Sections 13.05 and 5.02 of the zoning ordinance. He stated there were other places to permit the shed out of the floodplain. Steve Wherley seconded the motion. Motion was approved by unanimous voice vote.

Item 3 – Other Business

Board of Zoning Appeals By-Laws Amendment to increase application deadline from 21 days to a minimum of 29 days.

Linda Hodges read the staff report. Mr. Sanders stated the ordinance now requires site plan review by Planning staff and the extra time is needed for that review.

Steve Wherley made a motion to approve the new deadlines and the new schedule. Sue Workman seconded the motion. Motion was approved by unanimous voice vote.

There being no further business to come before the Board, the meeting was adjourned.

Secretary's Signature

Date