

**TOWN OF DAY ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES - APPROVED**

June 17, 2019

Page 1 of 3

Members Present:

Al Graham
Dave Davidson
Donald Poe
June Dixon
Steve Edwards

Counsel: not in attendance

Others Present: none

Chairman Davidson opened the meeting at 7:00PM

Pledge

Chair Davidson noted to the board that the first order of business to approve two sets of minutes from the regular ZBA meeting on April 15, 2019, and May 20, 2019. It was confirmed that the April minutes were expanded upon due to an issue with the recorder, and he wanted to confirm with board members that these minutes took into account an accurate summary of the April meeting before final approval.

Motion, made by member Al Graham, and seconded by June Dixon to approve the minutes from the April 15, 2019 Regular Zoning Board of Appeals meeting.

Ayes: Chair Davidson, Donald Poe, June Dixon and Al Graham.

Carried: 4-0 (Steve Edwards did not vote as he is a new member and was not at April meeting).

Chair Davidson asked if any of the board members had questions or comments regarding the meeting minutes from May 20, 2019. All members reviewed the minutes.

Motion, made by member Donald Poe, and seconded by member Al Graham to approve the minutes from the May 20, 2019 Regular Zoning Board of Appeals meeting.

Ayes: Steven Edwards, Chair Davidson, June Dixon, Al Graham, Donald Poe

Carried: 5-0

Chair Davidson discussed the two pending applications with the board because they are different than what we typically deal with. He said that zoning is about land use law. The variance that is granted doesn't go with person it goes with the land.

Pending application #1:

Conklingville Church - Digital/lighted Signage

The fact that it is a church does not make a difference, it is about land use. Board member Al Graham questioned if a church is considered a business, Chair Davidson replied that this is a question we would ask of our town counsel. Since our last board meeting, Rev. Phillip Allen brought in maps provided by HRBRD. This map was not what we had asked for (a certified land survey) and it does not show the sign or setbacks. In effect, Rev. Allen is not asking for a setback, he is asking for a variance to put a lighted digital sign up. Town law and APA does not allow lighted digital signage. Rev. Allen is aware of this because well over a year ago, our Code Enforcement Officer Kenneth Metzler, informed him with a formal notice that the sign that is erected to display digitally can't be turned on. They are now before the Zoning Board of Appeals to request a variance. We can't make any decisions until we go through the proper process, if they decide to pursue and submit a completed application with proper survey, and there is a public hearing, then the board can review all the facts and make a final decision.

Pending application #2:

Atty. Susan Millington representing Isabel Fortoul, Tax map #44-1-6.1

This application is a question of land title. In a sense we are being asked to resolve a problem created in the past by someone else. We have to make our decision based on good land use principles. +Chair Davidson asked if anyone from the Board went to see the site. Member Al Graham has been there, as was Chair Davidson and Chair Ted Mirczak from the Planning Board. Upon review of the site, it was determined that the dirt road that is there is not the road that was supposed to be built. It's on the bottom line of the property, and there was no sign of the road that was supposed to be built with the original subdivision.

Again, our decision is about land use, not about the title issue from 30 years ago. They are asking the Zoning Board of Appeals and the Planning Board to allow the owners of the lot to subdivide it into two pieces, one piece which is the lot that Ms. Fortoul purchased and that was

never registered. The first issue is do we allow 6.5 acres when 8.5 acres is required, and the second issue is the frontage on town road, 100 ft. is required by code and they don't have 100 ft. frontage, the property is not near any town road.

The underlying issue is correcting a title from 30 years ago. We are about land use, not the title question. The Zoning Board would decide on the land use question, not the title question.

New Business: None

Continuing Business: None

Correspondence: None

Secretary's Report: None

Motion made by Al Graham, seconded by Steve Edwards to **adjourn** this regular meeting of the Town of Day Zoning Board of Appeals was made at 7:15PM.

Ayes: Chairman Dave Davidson, Al Graham, June Dixon, and Donald Poe, Steve Edwards

Carried 5-0

Respectfully Submitted,

Diana Edwards
Clerk