Cabarrus County Government

Planning and Development Department

Cabarrus County Planning and Zoning Commission Meeting
October 9, 2012
7:00 P.M.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Roll Call

2. Approval September 11, 2012 Minutes

3. Approval of Findings of Fact for Conditional Use Permit, CUSE 2012-00001- WSACC Rocky River Regional Waste Water Treatment Plant

4. New Business - Planning Board Function:

   Cabarrus County Zoning Ordinance
   1. Proposed Text Changes – Chapter 1, General Provisions
   2. Discussion on Chapter 9 – Landscaping and Buffer Requirements, Chapter 10 – Parking and Loading and Chapter 11 - Signage

5. Directors Report

Planning and Zoning Commission Minutes
October 9, 2012

Mr. Larry Ensley, Chair, called the meeting to order at 7:00 p.m. Members present in addition to the Chair were: Ms. Mary Blakeney, Mr. Andrew Deal, Mr. Eugene Divine, Mr. Danny Fesperman, Ms. Shannon Frye, Mr. Ted Kluttz, Mr. James Litaker, Mr. Richard Price, and Mr. Jonathan Rett. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

Roll Call

Approval of September 11, 2012, Planning and Zoning Commission Minutes.

Mr. Ted Kluttz, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the September 11, 2012, minutes. The vote was unanimous.

Approval of Findings of Fact for Conditional Use Permit, CUSE 2012-00001 – WSACC Rocky River Regional Waste Water Treatment Plant

Mr. Richard Price, **MOTIONED, SECONDED** by Mr. James Litaker to **APPROVE** the Findings of Fact for Conditional Use Permit, CUSE 2012-00001 – WSACC Rocky River Regional Waste Water Treatment Plant. The vote was unanimous.

New Business – Planning Board Function:

Cabarrus County Zoning Ordinance Proposed Text Changes – Chapter 1, General Provisions.

Ms. Susie Morris, Planning and Zoning, Manager, addressed the board presenting proposed text changes to Chapter 1, General Provisions. This is the chapter that sets up the Zoning Ordinance.

The Text Amendment Committee went back through it and took a look at it in relation to the State Statutes. The text that is in red is text that will be added and any strikeout text will be removed. This is a very important chapter; it was sent to legal first before it was sent out to the Text Amendment Committee.

Mr. Koch went back through the chapter and he has a number of changes but none of them are really large or substantive.

Ms. Morris will make the additional changes requested from legal and will bring it back to the Board.

Ms. Morris said the next three chapters that we will take a look at are; Chapter 9, Chapter 10 and Chapter 11.

Chapter 9 sets up the landscaping and the buffers that are required between different types of uses. She said in 2008 or 2009 we took a look at the list of permitted plants, to try to find plants that are preferred here in North Carolina, which liked the environment, are known to do well and are also drought tolerant. On the current list, the items in bold type are drought tolerant plants. This is one of the things that came up during the listening tour given by the Sustainable Local Economy. She said folks were saying that they could not find the trees and they were not native to North Carolina. That is one thing that we have already addressed in the Ordinance.

Ms. Morris said this is more of a working meeting and asked the Board to step down to view samples of sight plans that show examples of what the buffers look like on the plans and how they are set up.

After the Board viewed the sample site plans, there were questions related to berms; whether or not they are allowed. We do allow a berm option and it is defined in Chapter 9, Table 4, on page 9-18. It says that a berm with a minimum height of six feet will reduce the buffer yard width by one half and the otherwise required planting materials by one half. The resulting berm must be sown with fescue grass and maintained.

Ms. Morris said if you drive out Harris/Poplar Tent Road; Moorecrest, Skybrook, and Winding Walk subdivisions are all examples of the type of buffer and what it looks like. She said Harris Road where Skybrook and Winding Walk are and Highland Creek is what the berm looks like in the field.

She said it does allow them to reduce it by one half; so with the Buffer yard #3 that could be a minimum of 25 feet. Where it says buffer yard width of yard, the minimum we have is 12 feet, the maximum we have is 100 feet, depending on what the uses are. With that buffer option, it can be reduced to 6 feet to 50 feet. If they install a fence they will get a 25% reduction.

Ms. Morris said tonight we are trying to find any big issues that we may need to drill down on with the Text Amendment Committee. If that is something the Board would like for them to take a look at, we can look at it in the smaller group.

Mr. Price is not a big fan of berms, but, he has to temper that with the notion that sometimes that may be the best option.

Ms. Frye asked if the planning requirements are the same on the berm.

Ms. Morris said they are not. If someone decides to use the berm option, the width is reduced by one half as well as the number of plants.

The examples she used, Moorecrest, Skybrook, and Winding Walk, you see that they did kind of do the clustering with those. Probably, because they had the lesser number, so they put them together to make it more aesthetically pleasing. They get a reduction with a fence and they also get a reduction if they install an opaque as well.

Ms. Frye asked if they would reduce the number of plants when they do the berm.

Ms. Morris said yes. For example, if it was 1.5 acres, the buffer yard width required would be 30 feet and they would have to install 6 trees per every 100 feet and 40 shrubs for every 100 feet. That would reduce that number to 3 trees per every 100 feet and 20 shrubs for every 100 feet. They actually get a 50% reduction.

Mr. Fesperman asked if there was a maximum or minimum height on berms.

Ms. Morris said the minimum is 6 feet, there is no maximum. If that is something that you would like the committee to look at they could do that.

Mr. Fesperman said yes. There are some places that are built like a fort and are not aesthetically pleasing.

Ms. Morris said this does apply to residential and commercial. It would apply to new subdivisions and it would also apply to any type of commercial development as well. The standards are the same for both, based on acreage.

Ms. Frye concurs with Mr. Fesperman with looking at the height of the berms; relative to not having some control on that. She said thinking that from a site, the bad dirt goes into the berm and then they are stock piling that on the perimeter of the site to avoid the cost of removing it from site. Then they are planting on that and just the condition of that soil, and that vegetation, she thinks there is a relationship to maintaining it, the height and the slope of it. She thinks all of that is relevant, to look at those details just in terms of what we have here and what we may want to consider.

The Chair asked that it be put on the committees list of things to review.

Ms. Morris said the committee will probably take a look at the chart as well, because it can be a little bit confusing. She asked if the Board had an opinion on Table 5 where it talks about developing uses and page 9-20 where it talks about the buffers. She said all of that is upon development, which seems to be reasonable, that if you are developing the site then you put the buffers in.

We have gone through the table before as well, and at that time we agreed, that if you were the one developing the property, you were responsible for putting in the buffers.

We talked about allowing substitutions for overhead power lines, so we do have that option. We have a fencing standard; the details are on page 9-16. If someone uses the fence option it does require it to be a slatted fence, a wooden fence, and it does have to be maintained. She does not know if we need to be as detailed as we are with requiring 3 strips of nails, but that is currently what is required.

We will take a look at the definitions and the other area is on page 9-5, to see if you are still okay with if it is a new use then they have to put the buffers in, if it is an expansion of an existing use or structure then there is a threshold. If it is less than 5% of the building floor area or 1000 square feet, then they do not have to put the buffers in but they do have to put the buffers in if it is a parking expansion or if they add a new building they have to buffer it where the new building is and not retrofit the entire site.

Ms. Morris said these are the main areas that she can take back to the committee to look at if the Board is okay with it.

Mr. Fesperman asked what the maximum height is on a fence.

Ms. Morris said there is a six foot minimum height requirement on fences. If you would like for us to consider a maximum height we can do that. We have had folks wanting to essentially build a 12 foot concrete wall around their home. She said this particular part only deals with the landscaping, because at this time, we do not regulate fences on residential property at all. Only if they were using the fence option to reduce something with the buffer would we be able to regulate the fence at this time.

Ms. Frye asked if there is any reason why the material is only limited to wood. She is thinking about long term maintenance; if other material would be an option.

Ms. Morris said there is no reason. She said since there are plastic fences available we could add that in; at that time, wood was the material of choice.

Ms. Frye said the committee may want to look at other materials.

Ms. Morris said we can add in additional materials. She said some of that might actually look better on commercial sites than a wooden fence that may fall into disrepair.

Ms. Morris said the following items to be discussed by the Text Amendment Committee are:

Berms - height of the berms, berms or buffers preferred
Fences – materials and height (Trex material)

She said this is where the committee will start.

Chapter 10 sets up the amount of parking spaces that are used for a particular use and what has to be there. Handicap parking is non-negotiable; that is set by the state and federal regulations. She said the Ordinance does allow for a percentage of compact

spaces, now with smaller cars coming back it seems to be reasonable; but an SUV will not fit in a compact car space.

It also talks about where the parking areas have to be sited. Over the years we have had some discussion about overflow parking; what is it considered, what is it not considered. We tried to make some changes but she does not know that those changes necessarily addressed what we needed to address. We will go back and take a look at the exemption for assembly for some of these. She thinks that the intent there was that if it were a park and that particular parking lot was not going to be used on a daily basis, not that the park itself would not be used on a daily basis. We probably need to take a look at that. She asked the Board if they had any thoughts on the overflow parking at this point or the low traffic storage yard.

She said 30 trips a day is not really a lot of trips generated to allow them to still use the turf or gravel; she thinks that is still reasonable. The overflow parking specifically says not to be used more than 10 times per calendar year and that either stays turf or gravel.

She asked if the Board wanted them to go back and take a look at the alternate materials we talked about for the trail design; if that should be an option or potentially pavers. Anything that we have right now, that is four or more spaces, has to be a paved parking lot.

Ms. Frye asked if there would be any consideration for a provision that would allow for shared parking. She said if you had two uses, and depending on the operating hours, whether you would establish stand-alone requirements for each use.

Ms. Morris said if there are two buildings that go on the same site we would look at them collectively for the overall site. We could potentially address shared parking. We have the option where if they cannot produce enough parking spaces, they can have parking within 400 feet. Sometimes that generates the shared parking areas.

She asked if there were any additional thoughts on the overflow parking or additional materials that could be permitted or should we stay with the turf and gravel?

The Chair is comfortable with turf and gravel.

There were no additional comments from the Board.

Ms. Morris said we will clarify the exemption for assembly facilities. That it is related to the actual parking lot itself, not the facility. I will make that revision.

Ms. Morris said on the Permitted Use Chart, we have a minimum and maximum based on having stormwater requirements. That is a lot more important now than it used to be and we will take a look at this since we revamped the Permitted Use Table. We will take a look at the chart and make sure that whatever those uses are that there is some place for them to go that makes sense. One of the things that we typically have issues with is a

park. It says per seat, but what if it is just a passive park? Do you count the park benches? How do you calculate the seats? At a staff level we have had some issues with this.

She said we will look at the Table of Permitted Uses to make sure that if someone looks at this table that the two somewhat correspond, so that they know up front what it is that they are looking at with the number of parking spaces.

She asked if Board saw anything that raised a red flag that we need to take a look at.

There were no other comments.

Chapter 11, Signage – Ms. Morris said the sign ordinance is relatively lenient compared to some. We just added the temporary sign option to Chapter 7. We still allow for some off premise signage, some of that is related to churches and schools, to try to get people to where they need to be. We still allow folks to put the real estate signs at the intersections, but, there is a time limit for that and they do not have to get permits to be able to that. There is a special event option, a garage and yard sale option, and guidelines related to political signs.

This past year, there were some changes to the State Statutes, dealing with what you can regulate and what you cannot regulate in the road right of way. She said you will see more encroachments in the road right-of-way. As zoning officials, we cannot pull those signs. It is now a state law, that if it is in the NCDOT right of way it gets to stay there, as long as NCDOT does not come and pull it because it is blocking a sight triangle or impede vision of the driveway or roadway.

Ms. Morris said as far as the on premise signs; with the temporary construction signs we changed that in the temporary sign section. We will make sure that all of this is consistent, and by all of this she means on Page 11-9, that that is the same language that is in the temporary sign section of Chapter 7.

When it comes to on premise signage, the off premise is the directional signs, NCDOT looks at those. They cannot exceed 6 square feet and they cannot be lighted. We do not permit those types of signs. The only thing that we actually permit is anything that goes on the building or anything that goes on the sight. One of the areas where some confusion seems to exist is about incidental signage; that is your entrance and exit signs. We will probably look at trying to put some examples of what that means into the Ordinance. There tends to be a lot of disagreement when our enforcement officers go into the field about what is an incidental signage and what they consider temporary signage.

She said some of the other jurisdictions do allow a certain percent of the windows to be covered with signage. Currently, we do have that in our Ordinance and she is not sure if that is something the Board would want the Committee to take a look at. Some of the jurisdictions have also started allowing feather signs and A frame signs. She said this can sometimes becomes a regulatory issue, or a recurring issue; because then it is kind of hide

and seek with the zoning enforcement officer. If those types of uses were allowed as a temporary use, she thinks we would want to see them permitted, so that they go away when they are supposed to and they do not become an aesthetics issue with the banners being torn and faded and things like that.

She said digital signage is very popular right now, as far as the reader boards with the scrolling. Currently, we do not allow that as an option.

Mr. Fesperman is glad that we don't. He said there is a safety situation with that; they are not safe.

Ms. Morris said when you get out into the unincorporated areas of the county, where there is not as much of the light and spill over, it could be very distracting to someone.

She said if the Board has an opinion on this issue, we can take a look at it.

Mr. Fesperman does not think the Board needs to review it. He likes what is currently in the Ordinance.

Ms. Blakeney agrees.

The Chair said going back to the window signage, is there any feedback from law enforcement on that issue.

Ms. Morris has not asked. When it comes to some uses, for example adult uses; we have a requirement in the Ordinance. In general, we do not have any requirements. She said right now wall signs and ground signs are allowed. If it is commercial, they can substitute for a canopy or a projecting or suspended sign. She said roof signs are not allowed, which is something that came up recently. Historically, we have not allowed that in the county.

Mr. Fesperman asked what signage the county allows for commercial.

Ms. Morris said if you are in a commercial district you are allowed one ground sign that could be up to six feet, and the sign area is 32 square feet. For the wall signage, you are allowed one per street frontage, and then it is based on the linear square footage of the building; as the building gets bigger your sign gets bigger. A canopy or an awning may be substituted for the wall sign and that can be 12 square feet. You are allowed one projecting sign if you have multiple stories. She said if it is a first floor and if it is suspended, they get 4 square feet and if it is projecting, they get 6 square feet.

She asked if the Board wanted to look at that, for if there was ever a development with a downtown setting where you would have bottom floor tenants and top floor tenants as well. If you want us to go back and look at the size of the signs, 32 square feet is that piece of plywood that gets you the 32 square feet. She said it is not small and that is just

the sign face. The sign face its self cannot be any taller than 6 feet but they can actually build a structure around it that is taller than the 6 feet.

Mr. Fesperman said one of the saddest things to him until this day, is the Lone Star elevation sign on Interstate 85 in the city. There were some loop holes there that the guys figured out. He and Ms. Blakeney were on the City Planning and Zoning Board during some of that; hoodwinked 500 feet from an intersection. It is still an ugly sight.

Ms. Morris said ours is measured from grade and up. She would hope that potentially that would not be an option; based on the way that we calculate it.

She asked if there was anything the Board wanted the committee to look at on the table in reference to size or height; besides to maybe try to clarify and tweak it so we do not end up with pole signs.

It was the consensus of the Board to clarify and clean up the table.

Mr. Deal asked if the maximum height of the street side sign is 6 feet.

Ms. Morris said that would be the ground sign.

Mr. Deal asked if that was near the street.

Ms. Morris said typically that is where they would place it.

One thing that Mr. Deal has noticed is the conflict between those types of signs and landscaping. He said a lot of times they are in the buffer yards and therefore the signs tend to get obscured if it is not done correctly. He thought there might be a provision or some other alternative to be able to see those signs. He said if you are driving along at a fairly decent speed, you may not even see the sign if you are looking for a business.

Ms. Morris said we do allow it to be in that buffer, so, that it is able to be closer to the street. If they are in thoroughfare overlay, it would be a 15 foot landscaped setback before they could start doing their parking lot or anything like that. But, we would allow that to happen in the buffer. She said maybe the committee looks at the distance or something to kind of save them from themselves.

Mr. Deal does not know what the solution would be. He does not know if some type of language could be incorporated as far as whoever is reviewing the site plan might be able to make some sort of accommodation. They obviously need to meet the landscaping buffers as well.

Ms. Morris said that is something we could look at, landscape being setback five feet or something off of it.

The Chair asked if it were a question of buffers or a question of maintenance.

Ms. Morris thinks it is a question of placement.

Mr. Deal said those buffers were pretty well maintained.

Ms. Morris said it is up to them, how they put it in the buffer. That is why she was saying it may be like saving them from themselves when they turn the plan in. If you could maybe have some distance between, so that they are visible. She said especially, if that is where they plan on putting their address for 911 purposes. We can take a look at that.

She said those will be our starting points. For signs: no scrolling signs, clarify and clean up the language to make sure that it is not looking like a pole sign. Landscape and signage at the street to make sure they are visible to ongoing traffic if possible.

Mr. Fesperman asked what the Ordinance allows for paving for a commercial business in the county; does it require cement?

Ms. Morris said four and below can be gravel but they would have to meet ADA standards. So essentially at least one would have to be paved.

Mr. Fesperman was thinking about a case when he was on the City Planning Board. The office drive connection of this facility coming out onto Highway 29 was gravel; which tracks gravel and is dangerous. The facility was annexed into the City, which required it to be paved. The applicant tried his best not to have to pave and comply with the city ordinance.

Ms. Morris said NCDOT will require the apron to be paved where it joins the street. Hopefully, they will not be tracking as much gravel out onto the street. If we keep it at four, the number of businesses that would actually only have four spaces is probably very limited.

There were no additional comments or recommendations by the Board.

Director Report

Ms. Susie Morris, Planning and Zoning Manager, addressed the board. There is going to be some training on Conditional Zoning, it will be held in Wilson, Dallas, and Asheville, North Carolina. Mr. Bill Duston will be conducting the training. He recently retired from Centralina Council of Governments and is now working with N-Focus-Planning, which is the planning group that provides services to the Town of Midland.

If anyone is interested in attending the training, please let her know. She also has a copy of the presentation and, if anyone would like a refresher, she would gladly go through it with them. There have been some changes, but most of the statute changes we have already addressed in our Ordinance; such as the conflicts of interest, how you calculate

who goes on and off the board when replacing members with alternates and things like that. She said most of it we have handled.

Mr. Koch, County Attorney, updated the Board on the Adequate Public Facilities Ordinance (APFO). We filed the petition for rehearing with the Supreme Court on September 28, 2012. Under the rules of Appellant procedure, they have to rule on the petition within 30 days. We should hear something by the end of this month. He said those same rules require that in order for the petition to be properly filed, we have to have at least two certificates of attorneys, with at least five years of practice experience who are willing to certify that they believe that the decision of the Supreme Court was wrong and that the arguments contained in the petition are legally correct.

We ended up with one retired Supreme Court Justice, Jim Exum, the former Dean of UNC Chapel Hill School of Law, Judith Wagner, General Counsel for the NC Association of County Commissioners, General Counsel for the NC League of Municipalities and several other County attorneys and Municipal attorneys as well. He said you must have a minimum of two; there is no maximum number that is set out in the rules. We think we had a pretty good number of people with some profile who would have knowledge of this area of the law and were willing to make those statements in their certificates.

He said they rule on the petition in terms of whether they are going to grant a rehearing; so it is really a two-step process. If they grant the petition, then there would be another argument before the Supreme Court. If they deny it, that is the end of road. In that petition, we did not challenge their decision concerning the voluntary mitigation payment or the money or impact fee as some people call it, part of the Ordinance. Rather, we challenged it on two bases.

First, the Ordinance has a severability provision in it, which basically says, that if one provision of the Ordinance is found to be invalid or illegal, that it does not affect the validity of the rest of it. The part of the Ordinance that the Majority seemed to have the most heart burn about was the money part. So, that was something that was pointed out in the dissent and was a very valid argument.

The other was the larger argument about some of the language in the Majority opinion, which could stand for the proposition that it's very much a limitation on local government powers. There is a statutory provision under Chapter 153A, that basically says that the local government powers that are contained in the different enabling parts of the statutes, related to different local government functions, should be construed broadly.

The Supreme Court's decision in our APFO case essentially wrote that statute right out of the statute books. He said that is the larger issue that was of concern to a lot of other people around the state. He does not think they really care one way or another about our APF Ordinance; but, this larger question certainly attracted their attention and was a cause for concern. So, that pretty much sums it up and is all that we know at this point; we will see what they do.

Mr. Koch said we do have the so called refund law suits; which are what he calls them, to differentiate them from the APFO validity lawsuits, which were the ones that went to the Supreme Court. The refund lawsuits are the ones where the developer and builders are suing the county to get their money back from what was paid under the consent agreements; the voluntary mitigation payments. We are defending those at the present time, on a number of different bases. He said without going through all the different defenses, he states generally, the main ones:

We have a contract with the developers and builders that they agreed to pay the mitigation payment. Basically, as one of several options that they could have utilized under the Ordinance in order to comply with it. The other things being phasing, scaling back of the development, and just waiting five years. You could certainly wait five years and you would not have to comply at all. There were a number of different options, and because the economy was so good at a certain point in time and there was demand for a lot of single family housing in this County, a lot of them chose the money option and at least, at one point, were willing to pay it.

The other aspect is the question of who the money belongs to. We certainly can identify who wrote the check in each case and those folks who wrote the check believe that they should get the money back. There are a number of other people who look at it from the point of view of who ultimately paid the bill. In some cases, certainly, and perhaps in many cases, that was the purchaser of the home initially.

He said Jim Scarborough is representing a number of the builders and has the lawsuit with the most number of plaintiffs. Mr. Scarborough was quoted in the Mecklenburg Times last month as saying, that now that the APFO has been declared invalid, the price of housing in Cabarrus County will go down. Which is essentially is saying that the fee was passed on to the end purchaser.

Mr. Koch pointed that out to Mr. Scarborough last week that he was going to attach that to his answer in the case. Nonetheless, it is not as straight forward as some people would want it to be considered, and in that particular case, we have agreed to treat it like a special type of case, because there are so many plaintiffs and their situations can be different; not all the issues apply to each one of them. It is a complex case and that is in the process of being established and that is going to go on for some period of time unless it can be resolved in some way.

Mr. Fesperman attended the NC Home Builders Development in Charlotte last week and the developers were discussing it. They are concerned that if they get reimbursed for the APFO fee, what would prevent a homeowner from suing them; that the homeowners could say that they ended up paying for it and that the cost was passed down to them. The developers are afraid that they could be liable.

Mr. Koch does not know if he could really comment on the legalities of that one way or the other. He said it would depend on the individual situation. It would be much easier for a homeowner to make that claim if it were a line item in their contract. If it is not, it is

just sort of built into the price of the house, then, he does not know. He said there are a lot of people who are very interested in that whole thing. It would not surprise him if someone moved to intervene in our law suit; someone representing home buyers who believe strongly enough that they paid for that that they would get counsel to represent them.

Mr. Koch said we will have to see what happens. It is a very real issue and he thinks it is an issue with the Commissioners as well. We are still in the early stages of it. He said that lawsuit, even though it was filed some time ago, there was a stay order entered in it that prevented anything from happening in the case until the Supreme Court ruled.

Mr. Koch updated the Board on the Ben Small case. He said what is going on right now is our enforcement action against him. The previous two lawsuits, basically, were his zoning interpretation appeal that came before this Board that ultimately went to Superior Court and then his variance application that went through the process of this Board and then to the Superior Court as well. Once those were determined in the County's favor, we filed this action.

He said Mr. Small filed an answer and a counter claim that alleged just a whole menu of different defenses; constitutional based defenses, a number of defenses that basically had no basis in fact or law. For example, Mr. Small said that the Safe Drinking Water Act applied to this case when it clearly doesn't under the Statute. All you have to do is read to see that. It has a threshold of 15 customers on a system and applies to public and private water systems; it does not apply to an individual well, which is what we have here. There is a whole bunch of stuff in there that basically had no merit and unfortunately, Mr. Koch had to spend some time running it all down.

We filed a motion for summary judgment and that was heard yesterday and the judge granted it. The case is over unless Mr. Small appeals it to the Court of Appeals. The Judge gave Mr. Small 45 days to deal with that building and even if he appeals it, under the rules of appellant procedure, he would have to post a bond to be able to keep any enforcement action from proceeding. We are hopefully getting toward the end of the road finally on that case. In the course of preparing for the case he noticed that it has now been going on over four years. He said hopefully, we are getting to the point where we will bring it to an end.

Mr. Koch said the way he drafted the order for submission to the judge, would allow Mr. Small to scale the building down to meet the requirements of a well cover. We will see what he does with it. Mr. Koch is not sure how easily that can be done, but if it can be done, he did not think it was appropriate or fair to foreclose him from being able to do that.

There being no further discussion, Mr. Ted Kluttz, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **ADJOURN** the meeting. The vote was unanimous. The meeting ended at 8.04 p.m.

APPROVED BY:

Shannon ~~Johnson~~ Frye, Chairperson

SUBMITTED BY:

Arlena B. Roberts

ATTEST BY:

Susie Morris
Planning and Zoning Manager