

**BOARD OF ZONING APPEALS  
MINUTES**

The Winchester Board of Zoning Appeals held its regular monthly meeting on, January 9, 2008, at 4:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

**PRESENT:**        **Koneczny, Wiley, Roberson, Hurt, and Phillips**

**ABSENT:**        None

**VISITORS:**       **Jeff LeSourd**

On motion by Mr. Koneczny, seconded by Mr. Roberson, the minutes of the January 9, 2008 meeting were unanimously approved as presented.

**CORRESPONDENCE**

None

**PUBLIC HEARINGS**

**BZA 07-26** Request of The Landing at Park Heights, on behalf of the subject property, for variances relating to retaining wall height and foundation planting, as required within Section 18-9-2.9 and Section 19-5-6.4i. of the Winchester Zoning Ordinance, at 650 Cedar Creek Grade, (*Section 250, Double Circle 7, Lot 14*), which is zoned Highway Commercial (B-2) and within the Corridor Enhancement (CE) Overlay District.

Mr. Diem, Zoning Administrator presented the report as follows:

The applicant, The Landing at Park Heights, is requesting relief of retaining wall height and foundation planting requirements. The subject property is located at 650 Cedar Creek Grade, which is conditionally zoned B-2, with CE Overlay. The variance requests are the result of site improvements having been made, which were not consistent with either the previously granted variance within BZA 06-26 or the approved Site Plan (SP-06-41).

The subject property is located within the Highway Commercial (B-2) District, with Corridor Enhancement (CE) District Overlay. The zoning classifications to the west and north are Medium Density Residential (MR); Residential Office (RO-1) to the east; and, B-2 to the south. The subject property has frontage on the north side of Cedar Creek Grade.

The retaining wall along the west end of the building, which faces Hillman Drive, was constructed such that there is more than a 3' maximum reveal to the street side. Within the conditional approval of BZA 06-26, the Board granted a variance to the requirement pertaining to retaining wall height, with the condition imposed that the retaining walls shall be constructed in a manner so as to not exceed a 3' maximum reveal to the street side. The wall reveal amounts to upwards of 5' at some points with no apparent purpose. Given the existing grade, a wall not exceeding 3' of reveal would have been sufficient.

The aforementioned retaining wall, as well as a wall at the east end of the building, does not comply with the 3-foot minimum separation requirement, as was approved on the Site Plan. The purpose of the horizontal separation distance (measured from the face of the wall to the face of the adjacent parking lot/driveway curb) is for pedestrian safety, vehicular damage prevention, and to provide for foundation planting. A suggestion was made to the property owner(s) to relocate a portion of curb and gutter into the excessively wide paved parking area, so that the separation distance can be met.

Mr. Diem submitted the original site plan for review.

Mr. Hurt opened the public hearing.

Speakers: Jeff Lesourd, Project Manager with H & H Construction stated he was available for questions.

Mr. Wiley asked if there is a delta between the curb and gutter and the retaining wall.

Mr. Lesourd stated there would be no problem meeting the 3' minimum requirement on the west side.

Mr. Koneczny asked if there were plans to make a three foot horizontal separation on both the east and west side.

Mr. Lesourd stated that they are prepared to do whatever the board suggests. He continued to say that they would prefer to have the waiver but he is prepared to do whatever is asked.

Mr. Hurt asked how these issues came to be.

Mr. Lesourd explained that simply the retaining wall was built first. He continued to say that based on the slope of the hill the wall cannot be dropped.

Mr. Hurt closed the public hearing.

Mr. Koneczny, seconded by Mr. Wiley motion to conditionally approve BZA 07-26, granting further relief of the retaining wall height limitation and 3' separation distance, with the following conditions imposed:

1. Additional landscaping shall be installed, so as to minimize the visual effect of the excessive retaining wall height; and,
2. Any landscaping added to the site, shall be in accordance with the provisions of the Winchester Zoning Ordinance and subject to the approval of the Director of Planning; and,
3. The required separation distance of at least 3' between the retaining wall at the west end of the building and the nearest curb-face shall be met by relocating the existing curb and gutter; and,
4. That no further Certificates of Occupancy for proposed uses of the commercial development shall be issued until the aforementioned conditions shall have been met and a final, as-built Site Plan has been submitted and approved by the Director of Planning; because,
  - a. The variance is in harmony with the intended spirit of the Ordinance; and,
  - b. That the strict application of the Ordinance would produce a clearly demonstrable hardship to the property; and,
  - c. That the authorization of the variance will not be of substantial detriment to the adjacent properties and that the character of the district will not be changed by the granting of the variance.

Motion carried 5-0-0.

**BZA 07-27** Request of Richard and Diane Pifer, on behalf of the subject property, for variances relating to building setback and permitted locations of accessory structures, as required within Section 3-5-1 and Section 18-10-1 of the Winchester Zoning Ordinance, at 601 Merrimans Lane, (*Section 188, Double Circle 2, Lot 1*), which is zoned Low Density Residential (LR) District.

Mr. Diem stated that this item is being administratively tabled because the applicant did not meet the public notification requirements.

Mr. Phillips seconded by Mr. Roberson, motioned to table BZA 07-27 until the requirements have been met.

Motion carried 5-0-0.

Board of Zoning Appeals

Minutes – January 9, 2008

Page 4

**OLD BUSINESS**

None

**Meeting adjourned:** 4:22 pm