CHESAPEAKE BOARD OF ZONING APPEALS
MINUTES OF THE REGULAR MEETING

September 22, 2016

306 Cedar Road, Chesapeake, VA 23322
Chesapeake City Council Chambers

I. CALL TO ORDER: Chairman Floyd called the meeting to order at 6:30 p.m.

II. ROLL CALL: The BZA Secretary called the roll.

MEMBERS PRESENT: Mr. Bruce Wethington, Member
Mr. Carl Thrift, Member
Mr. Herbert Laine, Member
Mr. Andrew Kubovcik, Member
Mrs. Erin Bedois, Vice-Chairman
Mr. Claude Floyd, III Chairman

MEMBERS ABSENT: Mr. Terry Woodhouse, Member
Mrs. Tanya Lomax, Alternate Member
Mr. Carl Matthews, Alternate Member

STAFF PRESENT: Mr. John T. King, III, Zoning Administrator
Mr. Dale K. Ware, Zoning Liaison
Mrs. Michelle Hackett, BZA Secretary
Mr. Ryan C. Samuel, Assistant City Attorney
III. APPROVAL OF MINUTES:

The Minutes of the December 10, 2015 Public Hearing did not have a quorum for approval. The Minutes of the August 25, 2016 Public Hearing was approved by a vote of 5-0-1, motion made by Mr. Kubovcik seconded by Vice-Chair Bedois.

Chairman Floyd asked the Secretary to read the first item of old business into the record.

IV. OLD BUSINESS:

The Secretary read Application #16-33 into the record for Board review and action.

A. Application # 16-33

Shepelle Watkins-White, POA for Little Joes Autos Inc, property owner, 1000 Hazel Court, pursuant to Section 20-501 of the Chesapeake Zoning Ordinance, appealing a zoning violation notice issued to the property dated May 02, 2016 for violation of Section 7-601 & 7-602 Table of Permitted & Conditional Uses in Business Districts – multifamily use and/or residential use is not permitted in areas zoned as Business (B2). The property is further identified as Par B Sub of Kitchen Realty Corp Prop 3.0874 Ac; Real Estate Parcel No. 0133010000221, Zoning Classification: B-2, general business.

Continuance request received, August 21, 2016.

The Secretary stated there was 1 registered speaker in support of Application #16-33.

Proponents for Application #16-33:

Shepelle Watkins-White- 870 Greenbrier Cir. Ste 405

Proponent:

Mrs. Watkins-White presented her request for a continuance due to additional information was presented and need additional time for case preparation.

Chairman Floyd called for a motion on Application #16-33.

Vice Chair Bedois motioned to continue Application #16-33.

Mr. Kubovcik seconded the motion.
Board Action:

Motion: Mrs. Bedois
Second: Mr. Kubovcik
Vote: 6-0-0

The Board of Zoning Appeals Granted a Continuance to Application #16-33 to the October 27, 2016 Hearing.

Chairman Floyd asked the Secretary to read the next item of business into the record.

The Secretary read Application #16-38 into the record for Board review and action.

B. Application #16-38

James Martin, property owner, 1137 and 1135 Seaboard Avenue, pursuant to Section 20-501 of the Chesapeake Zoning Ordinance, appealing a zoning violation notice issued to the property dated June 9, 2016 for violation of Section 14-102.B.6.d of the Chesapeake Zoning Ordinance using an accessory structure (sheds and/or garages) as a 2nd dwelling unit on a single-family lot. The property is further identified as 49, 50 and 51 Frost; Real Estate Parcel Nos. 1280000001680 and 1280000001670, Zoning Classification: RSFA1, residential.

Withdrawal request received on September 14th, 2016.

The secretary stated the application #16-38 was withdrawn by the applicant.

Chairman Floyd asked the Secretary to read the next item of business into the record.

V. NEW PUBLIC HEARING ITEMS:

The Secretary read Application #16-41 into the record for Board review and action.

A. Application #16 – 41

Douglas Collins with Scotty Signs, POA for ESW Poplar Hill Associates LLC, property owner, 3130 A Western Branch Boulevard, requesting a variance from Section 14-704.C.2.b of the Chesapeake Zoning Ordinance for an increase of 16.18 square feet of sign area for a Pizza Hut sign attached to the building to be 36.18 square feet instead of 20 square feet as permitted for a business establishment in
the shopping center. The property is further identified as 3130 Western Branch Boulevard, Churchland 11.914 Ac; Real Estate Parcel No. 0050000001130, Zoning Classification: B-4, shopping center business.

The Secretary stated there was one registered speaker supporting Application #16-41.

**Proponents for Application #16-41:**

Maritere Carreras – 3130 A Western Branch Blvd.

**Proponent:**

Ms. Carreras presented her case to the board.

Chairman Floyd asked to hear from the Zoning Administrator.

**Staff Analysis and Recommendation:**

Zoning Administrator, Mr. John King, stated applicant has presented a sign plan for a proposed Pizza Hut retail establishment the variance request is to increase the permitted area of the wall sign by 16.18 feet on the front elevation of the store this will result in 36.18 square feet instead of the 20 square foot permitted by the Chesapeake zoning ordinance. CZO 14.704 c 2 b restricts the area of a wall sign to one square foot of wall sign per linear foot of building frontage this unit is 20 feet in width resulting in the permitted sign area of 20 square feet. There is no evidence of hardship presented as defined by the state. The distance between the street and the face of the building was self-imposed by the property owner at the time. The trees mentioned in application while required could be maintained the in a manner that would allow visibility between the canopy and other lower shrubs that may be there. can permitted free standing sign for the shopping center could be relocated, its further back than average. Therefore staff recommends denial of the variance request.

Chairman Floyd asked to hear from the City Attorney.

City Attorney, Ryan Samuel, concurred with the Zoning Administrator you can’t have a contract supersede the zoning ordinance.

Chairman Floyd called for a motion on Application #16-41.

Mr. Kubovcik motioned to deny Application #16-41.

Vice Chair Bedois seconded the motion.
Board Action:
Motion: Mr. Kubovcik
Second: Vice Chair Bedois
Vote: 6-0-0

The Board of Zoning Appeals Denied Application #16-41.

Chairman Floyd asked the Secretary to read the next item of business into the record.

The Secretary read Application #16-42 into the record for Board review and action.

B. Application #16 – 42

William P Denby, Trustee, property owner, 125 Goldcrest Drive, requesting a variance from Section 6-1202.A.3.b. (1) of the Chesapeake Zoning Ordinance from the required side yard setback of 6 feet to approximately 3 feet to replace an existing non-conforming carport addition. The property is further identified as 108 Tanglewood Sec 3 & Resub 101 Sec 2; Real Estate Parcel No. 0132005001080, Zoning Classification R-10S, residential.

The Secretary stated there was one registered speaker supporting Application #16-42.

Proponents for Application #16-42:
William Denby – 125 Goldcrest Drive

Proponents:

Mr. Denby stated his case.

Chairman Floyd asked to hear from the Zoning Administrator.

Staff Analysis and Recommendation:

Zoning Administrator, Mr. John King, the applicant

Chairman Floyd asked to hear from the City Attorney.
City Attorney, Ryan Samuel, concurred with the Zoning Administrator there is no hardship.

Chairman Floyd called for a motion on Application #16-42.

Vice Chair Bedois motioned to deny Application #16-42.

Mr. Kubovcik seconded the motion.

Chairman Floyd called for the vote on Application #16-42.

**Board Action:**
Motion: Vice Chair Bedois
Second: Mr. Kubovcik
Vote: 6-0-0

The Board of Zoning Appeals voted to deny Application #16-42.
Chairman Floyd asked the Secretary to read the next item of business into the record.

The Secretary read Application #16-43 into the record for Board review and action.

**C. Application #16 – 43**

Todd Glaser, POA for Leonard G & Janet L Glaser, property owners, 3269 Western Branch Boulevard, requesting a variance of 2 feet from Section 14-202.A.1.a of the Chesapeake Zoning Ordinance from the maximum fence height of 4 feet to construct a 6-foot tall fence in an established front yard. The property is further identified as Par A Resub Reserved Par Churchland Park Sec 1, 0.80 Ac; Real Estate Parcel No. 0051001000002, Zoning B-1, neighborhood business.

The Secretary stated there was one registered speakers in support of Application #16-43

**Proponents for Application #16-43:**

Kevin Rooks- 3269 Western Branch Blvd.

**Proponents:**

Mr. Rooks stated his case.

Chairman Floyd asked to hear from the Zoning Administrator.
Staff Analysis and Recommendation:

Zoning Administrator, Mr. John King, the applicant

Chairman Floyd asked to hear from the City Attorney.

City Attorney, Ryan Samuel, concurred with the Zoning Administrator

Chairman Floyd called for a motion on Application #16-43.

Mr. Kubovcik motioned to deny Application #16-43.

Mr. Laine seconded the motion.

Chairman Floyd called for the vote on Application #16-43.

Board Action:

Motion: Mr. Kubovcik
Second: Mr. Laine
Vote: 6-0-0

The Board of Zoning Appeals voted to deny Application #16-43.

Chairman Floyd asked the Secretary to read the next item of business into the record.

The Secretary read Application #16-44 into the record for Board review and action.

D. Application #16-44

Eric & Talisha Choiniere, property owners, 2528 Drum Creek Road, requesting a variance from Section 6-802.A.3.b.(1) of the Chesapeake Zoning Ordinance from the required side yard of 10 feet to 7.5 feet for a 14’ x 14’ shed built on an existing concrete slab. The property is further identified as 130 Drum Creek Farms Sec 2; Real Estate Parcel No. 0092002001300, Zoning Classification R-15S residential.

The Secretary stated there was one registered speaker supporting Application #16-44.

Proponents for Application #16-44:

Talisha Choiniere – 2528 Drum Creek Road

Proponents:
Mrs. Choiniere stated her case.

Chairman Floyd asked to hear from the Zoning Administrator.

**Staff Analysis and Recommendation:**

Zoning Administrator, Mr. John King, the applicant

Chairman Floyd asked to hear from the City Attorney.

City Attorney, Ryan Samuel, concurred with the Zoning Administrator

Chairman Floyd called for a motion on Application #16-44.

Mr. Kubovcik motioned to approve Application #16-44.

Vice Chair Bedois seconded the motion.

Chairman Floyd called for the vote on Application #16-44.

**Board Action:**

Motion: Mr. Kubovcik
Second: Vice Chair Bedois
Vote: 6-0-0

The Board of Zoning Appeals voted to approve Application #16-44.

Chairman Floyd asked the Secretary to read the next item of business into the record.

The Secretary read Application #16-45 into the record for Board review and action.

E. **Application #16-45**

Samuel D & Rachel Higginbotham, property owners, 4705 Charlton Drive, requesting a variance from Section 14-102.B.1 of the Chesapeake Zoning Ordinance for an increase of 14% to permit 3 accessory structures to cover 89% of the principal structure instead of 75% as allowed. The property is further identified as Head Western Branch 1.25 Acres; Real Estate Parcel No. 0150000000230, Zoning Classification: R-15S, residential.

The Secretary stated there was one registered speaker supporting Application #16-45.
**Proponents for Application #16-45:**

William Verebely Jr. – 2200 F Dunbarton Drive

**Proponents:**

Mr. Verebely stated his case.

Chairman Floyd asked to hear from the Zoning Administrator.

**Staff Analysis and Recommendation:**

Zoning Administrator, Mr. John King, the applicant

Chairman Floyd asked to hear from the City Attorney.

City Attorney, Ryan Samuel, concurred with the Zoning Administrator

Chairman Floyd called for a motion on Application #16-45.

Mr. Kubovcik motioned to deny Application #16-45.

Vice Chair Bedois seconded the motion.

**Board Action:**

Motion: Mr. Kubovcik  
Second: Vice Chair Bedois  
Vote: 6-0-0

The Board of Zoning Appeals voted to deny Application #16-45.

The Secretary stated this concludes all the applications.

**F. New Business:**

None to consider.

**G. Review of Litigation:**

Assistant City Attorney, Ryan Samuel, Greensville Transport case may be heard by the Supreme Court the week of October 31st and November 4th, awaiting official confirmation. The first part of the Chesapeake Energy Center trial is scheduled for October 11, 2016 where they are challenging the City Ordinances validity.
H. Adjournment:

7:15 p.m.

MINUTES PREPARED BY: Michelle Hackett, BZA Secretary  

MINUTES APPROVED BY: Mr. Claude Ross Floyd, III, Chairman BZA