

Taylor Mill Board of Adjustments
January 8, 1997
7:00 PM

Members Present: Paul Maxfield (Chairman); Lee Fleischel; John Lucas; Leo Dolan.

Chairman Maxfield called the meeting to order at 7:00 PM . Chairman Maxfield began the meeting by calling for an election of officers for the new year. Lee Fleischel nominated Paul Maxfield to serve as Chairman, seconded by John Lucas. Chairman Maxfield called for a vote, all in attendance voted "yea". The motion carried.

John Lucas nominated Sherry Doggett to serve as Vice-Chair, Lee Fleischel seconded the motion. Chairman Maxfield called for a vote, all in attendance voted "yea". The motion carried.

Lee Fleischel nominated Ed Meece to serve as Secretary, John Lucas seconded the motion. Chairman Maxfield called for a vote, all in attendance voted "yea". The motion carried.

Chairman Maxfield asked if there was any further Old Business that needed attention prior to beginning the public hearing. Mr. Meece asked for a clarification of the fee to be charged for an Appeal of the Zoning Administrator's Decision. He stated that an application has been given, but was unsure what fee should be levied. Chairman Maxfield said that he believed the same fee should be charged for all hearings (regardless of the type), and that the by-laws be changed to reflect this fee schedule. Mr. Meece stated that he will prepare any necessary changes to accomplish the new fee schedule, and submit them to the Board at a later date.

PUBLIC HEARING NUMBER ONE (1):

John Mace (CW Contracting) appeared on behalf of Anna Miller, 8857 Locust Pike Drive.

Prior to asking Mr. Meece for a staff report, Mr. Maxfield asked a question regarding the Board's lack of authority to actually allow the expansion of a non-conforming use. Mr. Meece stated that he had discussed the matter with Mr. Wichmann, City Attorney, and that Mr. Wichmann felt the matter could be handled within the discretion of the BOA; due to circumstances of Mrs. Miller's health, the fact that the

parcel was large enough for a re-zone if desired, and that there was ambiguous language in sections d(1), e, f, and g, to indicate that such an action might be possible under the BOA.

Mr. Fleischel indicated that he considered the application a change that simply transfers the use of the space that can't be used (basement) to a space that is accessible by the applicant. Mr. Maxfield agreed with the this point, and stated that in combination with the spirit of the Americans with Disabilities Act he was comfortable in hearing the application. Mr. Dolan also noted the BOA's ability to attach conditions to any action that might be taken in the matter.

Mr. Lucas noted the language in sections F & G, indicating that the BOA can grant a change to a non conforming use but NOT enlarge or extend a non conforming use. Mr. Lucas said that for the purpose of the application, we should consider this a *change* to the non conforming use. All members in attendance agreed with Mr. Lucas'.

Mr. Meece continued his staff report by explaining how the property became non conforming under zoning law. In conclusion, Mr. Meece stated that all required notification had been given for the meeting, as well as required publication had been satisfied. Mr. Meece said the application was for a change from one non conforming use to another non conforming use; this would allow Mrs. Miller to build an addition on her home - since her age (85), and frailty, prevent her from using the basement where her storage and utility space is located. Mr. Meece noted the report from Mr. Withrow stating that the planned improvements, with minor changes, would be in compliance with building code. Mr. Meece also provided the Board with a photograph of the property/home in question. In response to Mr. Fleischel, Mr. Meece stated that no negative comments have been received from nearby residents with regard to the application. Mr. Meece recommended that the BOA approve the application.

Chairman Maxfield briefly discussed the required findings of fact for an application of this kind to be approved. Mr. Mace had no comment at this time, and there was no one in the audience. Mr. Lucas made a motion to approve the application for a change to the non conforming use, based on the finding that the Board was satisfied all conditions of Article 18 Section D (1) (d) (1-3) have been met; seconded by Lee Fleischel. Chairman Maxfield called for a vote, all in attendance voted "yea". The motion carried. The meeting was adjourned at 7:25 PM .