

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

January 30, 2009

I. **ATTENDANCE** - The Chair called the meeting to order at 1:02 p.m. in the Council Chambers, 200 East Main Street, on January 30, 2009. Members present were Chairman Peter Brown, James Griggs, Carolyn Edwards, Barry Stumbo, Kathryn Moore and Jan Meyer. Others present were Jim Hume, Division of Building Inspection; Barry Brock, Division of Engineering; Jim Gallimore, Division of Traffic Engineering; and Rochelle Boland, Department of Law. Staff members in attendance were Bill Sallee, Jim Marx and Wanda Howard.

II. **APPROVAL OF MINUTES** – Chairman Brown announced that there were no minutes of past meetings to be considered at this time.

III. **PUBLIC HEARING ON ZONING APPEALS**

Swearing of Witnesses – Prior to sounding the agenda for today's meeting, Chairman Brown asked all who wished to speak to stand and be sworn. He administered the oath to several citizens in attendance.

A. **Sounding the Agenda** - In order to expedite completion of agenda items, the Chair announced that he would sound the agenda in regard to any postponements, withdrawals, and items requiring no discussion.

1. **Postponement or Withdrawal of any Scheduled Business Item** - The Chair will announce that any person having an appeal or other business before the Board may request postponement or withdrawal of such at this time.

a. **A-2008-101: EMERGENCY DISASTER SERVICES** - appeals for an administrative review to determine that the display, sale and storage of semi-trailers is permitted in a Highway Service Business (B-3) zone; and whether the current use of the property qualifies as the sale of semi-trailers, on property located at 801 East New Circle Road (Council District 6).

The Staff Recommended: Approval of that portion of the administrative appeal determining that the sale and leasing of semi-trailers (and accessory storage) is permitted in the B-3 zone, for the following reasons:

- a. A semi-trailer is substantially similar to other items, such as travel trailers or mobile homes, which are permitted for sale or lease in the B-3 zone.
- b. If a determination is made that semi-trailers are not similar enough to those items specifically identified in the Zoning Ordinance as eligible to be sold or leased in the B-3 zone, then semi-trailers would not be permitted to be sold or leased in any zone as the Zoning Ordinance is currently constructed.

The Staff Recommended: Disapproval of that portion of the administrative appeal determining that the activities taking place on the subject property are appropriately considered as the sale, leasing and accessory storage of semi-trailers, and that the decision of the Division of Building Inspection be upheld, for the following reasons:

- a. The storage of semi-trailers on the subject property is more appropriately considered as a truck terminal, which by definition (as stated in Article 1-11 of the Zoning Ordinance) includes the storage of semi-trailers for more than 24 hours. The physical appearance of the property, with numerous semi-trailers being stored outdoors, closely resembles that of other properties (primarily in I-1 zones) that have been permitted by the Division of Building Inspection as truck terminals. A truck terminal is not a permitted use in the B-3 zone.
- b. There is no indication of any active sales or leasing of semi-trailers taking place on the subject property, as evidenced by the lack of a sales or leasing office, no on-site sales or leasing staff, and no signage indicating that semi-trailers are available for sale or lease. As such, it is not appropriate to consider the storage taking place on the subject property as accessory in nature.
- c. The nature of the appellant's business, being focused on providing semi-trailers for emergency and disaster response, is not conducive to or enhanced by the need or ability to conduct sales or leasing activities on the subject property. Given the irregular and often unanticipated timing of such events, sales and leasing transactions take place via other arrangements. In that light, the primary function of this particular property for the appellant's business is just for storage, regardless of the extent to which sales and leasing transactions are taking place at a particular time.
- d. Storage of semi-trailers as a principal use is only permitted by the Zoning Ordinance in the B-4, I-1 and I-2

zones.

Representation – Ms. Rena Wiseman, attorney for the appellant, appeared before the Board, and stated that she had also appeared at the Board's meeting last month. They represented last month that they felt confident that they would resolve the outstanding issues with their appeal, and they have since resolved nearly all of those issues. They also indicated last month that they would provide additional submissions to Building Inspection. Yesterday, Ms. Wiseman submitted a letter of withdrawal of this appeal to the Division of Planning staff. According to the Board's by-laws, this is all that is necessary.

Ms. Wiseman stated that Mr. Roger Ladenburger, a landscape architect, had submitted landscaping plans to Building Inspection. His plans show the required vehicle and truck parking, site landscaping and other information. With those submissions, she stated that a permit for this use can now be obtained from Building Inspection. That office and Engineering have already made review comments back to them. Ms. Wiseman stated that they hope to have all work completed within six months from now.

Ms. Wiseman stated that the Lundy's catering trucks have been removed from the site. However, Kentucky Utilities has a contract with EDS, and there is an ice storm emergency currently underway in this region. Utility workers from several states are visiting Lexington, and they are staying at this location. The utility companies use this as a base location, and as a staging area. She repeated that there is currently an emergency situation with electric power service. She also stated that Mr. Lundergan had spoken with the Neighborhood Association president to outline this most recent activity on the site.

Discussion – Chairman Brown asked Ms. Wiseman if they were withdrawing this application. He also asked if the site plan would be completed soon. She replied in the affirmative, and said that their plan is for all site work to be done by July 31. Some landscaping work can not be done until the weather improves.

Mr. Brown thanked her for resolving this situation. He stated that, since this is a withdrawal, no motion was necessary from the Board.

- b. **AV-2009-7: LBX COMPANY, LLC** - appeals for an administrative review to allow two directional signs that exceed the size limit of the Zoning Ordinance; and a variance to increase the allowable height of each from 3 feet to 6 feet, in a Light Industrial (I-1) zone, on property located at 2004 Buck Lane (Council District 2).

The Staff Recommended: Disapproval of the requested administrative appeal, for the following reasons:

- a. No information or assessments of any kind have been provided to support that a directional sign of three square feet would not be reasonably visible at this location. Absent any site-specific justification for increasing the allowable sign size, granting this appeal would set a poor precedent that would be easily transferable to other locations.
- b. The Board of Adjustment is not authorized to increase the maximum permitted sign area on a lot, pursuant to Article 17-8(a) of the Zoning Ordinance.

The Staff Recommended: Disapproval of the requested variance, for the following reasons:

- a. Special circumstances related to this particular property have not been identified to support that additional sign height is needed. The property is relatively flat, and there are no obstructions along Buck Lane that would limit sign visibility at this location.
- b. Strict application of the Zoning Ordinance is appropriate in this case, as it is not anticipated that complying with the size and height limits for directional signage in the I-1 zone will result in any type of hardship or deprive the appellant of a reasonable use of their property.
- c. Granting the requested variance would set a damaging precedent that could, over time, adversely affect the public welfare due to the incremental accumulation of signage that exceeds the normally prescribed height limits specified in the Zoning Ordinance.

Discussion – Mr. Marx said that a letter had been received by the staff requesting withdrawal of this appeal. Since this is a withdrawal, no motion was necessary from the Board.

- c. **C-2009-5: STEPHEN and CATHY SNOWDEN** - appeal for a conditional use permit to establish a vehicle storage yard, in a Light Industrial (I-1) zone, on property located at 311-321 United Court (Council District 12).

The Staff Recommended: Approval, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties.

There are no aspects of a vehicle storage operation that are likely to be disturbing to other properties in this portion of the Blue Sky industrial area. Traffic to and from the site is expected to be minimal, and the storage areas will be fenced in accordance with the requirements of Article 8-21(o)1 of the Zoning Ordinance.

- b. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The vehicle storage yard shall be established in accordance with the submitted application and site plan.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to undertaking the required improvements related to fencing and paving/stripping of the storage areas.
3. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
4. The lot at 321 United Court shall not be used for vehicle storage until such time that the lot is paved, with parking spaces delineated to the approval of the Division of Traffic Engineering.
5. The currently proposed layout of the vehicle storage spaces on concrete shall also be subject to review and approval by the Division of Traffic Engineering.

Discussion – Mr. Marx stated that the appellant is dealing with an emergency situation, due to the recent ice storm. Chairman Brown asked for a vote from the Board for postponement, given this circumstance.

Action – All members voted in the affirmative (Stout absent) to postpone **C-2009-5: STEPHEN and CATHY SNOWDEN** - appeal for a conditional use permit to establish a vehicle storage yard, in a Light Industrial (I-1) zone, on property located at 311-321 United Court, to the Board's February meeting.

2. No Discussion Items - The Chair will ask if there are any other agenda items where no discussion is needed...that is, (a) The staff has recommended approval of the appeal and related plan(s), (b) The appellant concurs with the staff's recommendations. Appellant waives oral presentation, but may submit written evidence for the record, (c) No one present objects to the Board acting on the matter at this time without further discussion. For any such item, the Board will proceed to take action.

Chairman Brown sounded the remaining items on the Board's agenda at this time. There were no objectors present; thus, all remaining items could be discussed in abbreviated fashion at this meeting.

- B. Transcript or Witnesses - The Chair will announce that any applicant or objector to any appeal before the Board is entitled to have a transcript of the meeting prepared at his expense and to have witnesses sworn.
- C. Variance Appeals - As required by KRS 100.243, in the consideration of variance appeals before the granting or denying of any variance the Board must find:

That the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:

- (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
- (b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
- (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulations from which relief is sought.

1. **V-2009-8: TROY C. MYERS** - appeals for a variance to reduce the required side yard from 3 feet to 0 feet in order to allow a fence to remain as built, in a Planned Neighborhood Residential (R-3) zone, on property located at 3932 Palomar Cove Lane (Council District 10).

The Staff Recommended: Approval, for the following reasons:

- a. Granting the requested variance should not adversely affect the public health, safety or welfare, nor alter the

character of the general vicinity, as the residence is set back well over 3' from the side property lines on each side of the lot.

- b. The manner in which the residence was sited on the lot, with a 6' setback on the west side and over 10' on the east side, is a special circumstance that renders the requested dimensional variance reasonable and justified.
- c. Strict application of the Zoning Ordinance, intended to address situations where adjoining homes are constructed with just a 3' side yard setback, would require that the fence on each side of the residence be moved 3' in from the side property lines. This would result in a very awkward appearance with no clear functional benefit in terms of providing unobstructed access for maintenance and emergency response.

This recommendation of approval is made subject to the following conditions:

- 1. The fence may remain where installed in accordance with the submitted application and site plan.
- 2. The variance is granted only for the purpose of allowing the fence to remain where installed, and shall not in any way be used to adjust the required setback for the construction of any future building addition or other structure.

Representation – Mr. Troy C. Myers was present representing the property owner at 3932 Palomar Cove Lane. He stated that they were in agreement with the staff's recommendations.

Discussion – Mr. Griggs asked if the R-3 fencing requirements need to be changed, or if the Board's approval of this variance would set an adverse precedent. He also asked if, in an emergency, could there be proper egress. Mr. Marx replied that the R-3 fencing restrictions are primarily to prohibit any obstructions in the side yards. In this case, there has been more than the minimum of 3' of side yard provided on this lot, but the fence location still requires a variance. He did not believe this approval would set a precedent.

Ms. Meyer asked if the proper permit was obtained from Building Inspection. Mr. Myers replied in the affirmative, but stated that after the permit was obtained, changes were made to the fencing plan. They decided to make an adjustment to the fence, to take it back from the front corner of the house, instead from the rear corner. Ms. Meyer asked if the plan was altered after the permit was issued. Mr. Myers agreed that was the case. In retrospect, he wished he had gone to Building Inspection to discuss this. However, this property backs to a commercial property and to a small farm on the other side of this lot. They thought that this change would be okay for that reason.

Since there were no objectors to this request, Chairman Brown called for a motion on this matter.

Action – A motion was Mr. Stumbo, seconded by Ms. Edwards, to approve **V-2009-8: TROY C. MYERS** appeal for a variance to reduce the required side yard from 3 feet to 0 feet in order to allow a fence to remain as built, in a Planned Neighborhood Residential (R-3) zone, on property located at 3932 Palomar Cove Lane, for the reasons provided by the staff; subject to the two recommended conditions.

The votes were as follows:

Ayes: Brown, Edwards, Moore, and Stumbo

Nays: Griggs and Meyer

Absent: Stout.

The motion carried, 4-2.

D. Conditional Use Appeals

- 1. **C-2009-1: JANET BARTHOLOMEW** - appeals for a conditional use permit to provide family child care for up to 12 children, in a Single Family Residential (R-1D) zone, on property located at 1425 Dale Drive (Council District 8).

The Staff Recommended: Approval, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. Adequate off-street parking is available in the existing driveway, so no new paving will be required and the

residential appearance of the property will be maintained. On-street parking for at least two vehicles is available on Dale Drive immediately in front of the subject property. The rear yard play area of approximately 1,200 square feet will be much larger than the minimum required by the Zoning Ordinance for this use.

- b. All necessary public services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. Child care for up to 12 children shall be provided in accordance with the submitted application and site plan, with care to be provided only during the week (Monday through Friday) between the hours of 6:00 AM and 6:00 PM.
2. An occupancy permit shall be obtained from the Division of Building Inspection prior to increasing the number of children cared for above six.
3. The rear yard play area shall be fenced in accordance with the requirements of the Division of Building Inspection, with fencing to be maintained in a structurally sound manner.
4. Child care activities shall at all times fully comply with regulations of the Kentucky Cabinet for Health and Family Services.
5. This approval shall become null and void should the appellant no longer own or reside at the subject property.

Representation – Ms. Janet Veronica Bartholomew was present for her appeal. Chairman Brown asked if she had reviewed the conditions recommended by the staff. She took a moment to review them. Chairman Brown then asked if she would agree to abide by them. She replied in the affirmative.

Discussion – Chairman Brown asked Mr. Hume about recommended condition #2. He asked if the fence would need to be installed in good order prior to the issuance of the required Certificate of Occupancy (CO). Mr. Hume said in reply that the fence would need to be installed and inspected prior to the CO. Ms. Bartholomew said that she has already installed a new fence in the rear yard. Chairman Brown stated that she would need to comply with all five conditions and then call Building Inspection for her occupancy permit. He added that no additional children could be cared for at this location until these have been completed.

Action – A motion was made by Ms. Moore, seconded by Mr. Stumbo, to approve **C-2009-1: JANET BARTHOLOMEW** - appeal for a conditional use permit to provide family child care for up to 12 children, in a Single Family Residential (R-1D) zone, on property located at 1425 Dale Drive, for the reasons provided by the staff; subject to the five conditions recommended.

Discussion of Motion – Mr. Hume asked if there was a photo of the rear yard available. A photo was displayed by Mr. Marx showing the rear yard fencing. The photo was also circulated to the Board members for review.

Mr. Hume asked Ms. Bartholomew if the driveway and the entire rear yard were going to be used for the children's outdoor play area. She replied in the affirmative, but said that no cars would be moving on the driveway during the day when children are present. Mr. Hume stated that he was satisfied that this would work.

The votes were as follows:

Ayes: Brown, Edwards, Griggs, Meyer, Moore, and Stumbo

Nays: none

Absent: Stout.

The motion carried, 6-0.

2. **C-2009-2: BRIAN CASALE / NEW HORIZONS CHURCH** - appeals for a conditional use permit to expand the capacity and hours of operation of a child care facility, in a Light Industrial (I-1) zone, on property located at 420 Fairman Road (Council District 2).

The Staff Recommended: Approval, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or the surrounding properties. A suitable arrangement for dropping off and picking up children will be provided, and adequate off-street parking for the expanded use already exists to the rear of the building to be occupied. There are no adjoining or nearby residential uses that might be disturbed by increased capacity at the child care center. It is

not anticipated that an expanded child care facility will interfere with other activities in the building, which include a construction company and a dance school.

- b. All necessary public services and facilities are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The child care center shall be established in accordance with the submitted application and an amended site plan indicating the completion of all driveway and sidewalk improvements as required by the Board pursuant to action taken for case number C-2008-12.
2. All necessary permits, including a Certificate of Occupancy, shall be obtained from the Division of Building Inspection prior to expanding the child care facility.
3. The facility may accommodate no more than 225 children.
4. The facility shall at all times operate in compliance with applicable state and local regulations pertaining to child care.
5. The drop-off and pick-up arrangements shall be actively managed to ensure that the rear parking lot is used for that purpose, with parents directed to not use the access closer to Mercer Road that leads directly to the front of the suite to be occupied.

Representation – Mr. Brian Casale appeared on behalf of his appeal. Chairman Brown asked if he had reviewed the staff recommendation and the five recommended conditions. Mr. Casale replied in the affirmative. Chairman Brown asked if the church would agree to abide by these conditions. Mr. Casale replied in the affirmative again.

Discussion – Chairman Brown asked about a previous trip to the Board by this church last February, requesting a similar conditional use permit. He asked if the church had completed everything required from their 2008 application. Mr. Casale stated that their last application was faulty in terms of their proposed hours of operation. In his estimation, they had made an expensive mistake. The church has just begun construction, as the State held up their plans for five months. Chairman Brown asked how many children are currently enrolled in this day care. Mr. Casale replied that there are currently none enrolled, as construction is currently ongoing, and they are just now accepting employment and enrollment applications.

Chairman Brown asked Mr. Hume if the church's Certificate of Occupancy will be contingent upon the February 2008 conditions being met. Mr. Hume replied that he will base his review and inspection upon the conditions approved as part of this case, not the prior one.

Mr. Casale stated that the state license has not even been requested as of yet. Chairman Brown thanked him for trying to gain approvals prior to applying to the Board. He stated that this one is the exception to the type of application the Board usually sees.

Ms. Moore asked about the 225 children proposed to be cared for, and if there would be 225 at this facility at one time. Mr. Hume replied that there would be up to 225 children there at one time.

Mr. Hume asked about the proposed outdoor play area. Mr. Casale referred to the outdoor green area attached to the building, which is designed for the required play area. The site plan was displayed on the overhead, and Mr. Casale outlined where the 3,400 square-foot play area would be on the site in relation to the building. Children will not have to cross the parking area to enter the outdoor play area, and it will be fenced to ensure that separation.

Mr. Hume asked for a revised condition for this purpose. Ms. Boland stated that proposed condition #1 will meet Mr. Hume's desire, as a revised site plan is already required.

Action – A motion was made by Ms. Meyer, seconded by Mr. Griggs, and carried unanimously (Stout absent) to approve **C-2009-2: BRIAN CASALE / NEW HORIZONS CHURCH** - appeal for a conditional use permit to expand the capacity and hours of operation of a child care facility, in a Light Industrial (I-1) zone, on property located at 420 Fairman Road, for the reasons provided by the staff; subject to the conditions recommended.

3. **C-2009-3: FASIG-TIPTON COMPANY, INC.** - appeals for a conditional use permit to amend a previously approved site plan, clarifying that a new sales office building will include a full basement, in the Agricultural Rural (A-R) zone, on property located at 2400 Newtown Pike (Council District 12).

The Staff Recommended: Approval, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. A horse sales establishment has been at this location for many years. The new office building will be

immediately adjacent to the existing sales pavilion, well outside of the required 25' floodplain setback. Adequate off-street parking is conveniently available, and any increase in traffic is expected to be minimal.

- b. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The new office building shall be built in accordance with the submitted application and site plan, set back at least 25' from the 100-year floodplain associated with Cane Run Creek.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to construction.
3. A storm water management plan, if required, shall be implemented in accordance with the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
4. Best Management Practices are to be used so as not to affect the water quality in the Royal Spring Aquifer Protection Area.
5. That the proposed construction and layout of the property be presented to, and reviewed by, the Royal Spring Aquifer Wellhead Protection Committee prior to issuance of any permits from the Division of Building Inspection.

Representation – Ms. Susan Zehnder and Mr. Ben Palmer-Brown were present at the podium to represent the appellant, along with Mr. Darren English of Fasig-Tipton. Chairman Brown asked if they have reviewed the recommendation of the staff, and if the applicant will the appellant abide by the recommended conditions for approval. Ms. Zehnder replied affirmatively that they had reviewed the recommendation, and would abide by the conditions.

Action – A motion was made by Ms. Edwards, seconded by Mr. Stumbo, and carried unanimously (Stout absent) to approve **C-2009-3: FASIG-TIPTON COMPANY, INC.** - appeal for a conditional use permit to amend a previously approved site plan, clarifying that a new sales office building will include a full basement, in the Agricultural Rural (A-R) zone, on property located at 2400 Newtown Pike, for the reasons provided by the staff; subject to the five conditions recommended.

5. **C-2009-6: ATCHISON-HELLER CONSTRUCTION COMPANY, LLC** - appeals for a conditional use permit to allow an existing clubhouse and pool to be retained as a principal use on a separate lot, in a High Density Apartment (R-4) zone, on property located at 1950 Fort Harrods Drive (Council District 9).

The Staff Recommended: Approval, for the following reasons:

- a. Continuing the operation of this clubhouse and pool on a separate lot as a "private club" should not adversely affect the subject or surrounding properties, provided that those amenities are managed for the benefit of the immediately surrounding residential community. As such, there should not be any noticeable difference in the day-to-day operations of the pool and clubhouse.
- b. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The clubhouse and pool may be retained in accordance with the submitted application and site plan, or as amended by the Planning Commission.
2. Prior to the recording of the anticipated Final Record Plat for this property, the appellant shall demonstrate to Building Inspection that the clubhouse and pool will function as a private club for the benefit of the immediately surrounding 120-unit residential community (as depicted on the Amended Final Development Plan for the Davis Family Children's Irrevocable Trust, certified on July 1, 2008).
3. A note regarding action by the Board shall also be placed on the subdivision plan filed with the Division of Planning for creation of the proposed lot.

Representation – Mr. Rory Kahly, EA Partners, was present for the appellant. Chairman Brown asked if the appellant had reviewed the recommendation, and would abide by the conditions. Mr. Kahly replied affirmatively.

Discussion – Mr. Hume asked Mr. Kahly if this application was for a private club. Mr. Kahly replied in the affirmative. He stated that they have received the information from Building Inspection, outlining the requirements for that particular use. Mr. Hume wanted it clarified for the record that this use will need to meet Building Inspection's requirements.

Action – A motion was made by Mr. Stumbo, seconded by Mr. Griggs, and carried unanimously (Stout absent) to approve **C-2009-6: ATCHISON-HELLER CONSTRUCTION COMPANY, LLC** - appeal for a conditional use permit to allow an existing clubhouse and pool to be retained as a principal use on a separate lot, in a High

Density Apartment (R-4) zone, on property located at 1950 Fort Harrods Drive, for the reasons provided by the staff; subject to the three conditions recommended.

IV. **BOARD ITEMS** - The Chair will announce that any items a Board member wishes to present will be heard at this time.

- A. **Election of Officers** - At the January meeting each year, the Board shall elect a Chairperson, a Vice-Chairperson, a Secretary and any other officers it deems necessary. Nominations shall be made from the floor, and the candidate receiving the majority vote of the membership in attendance shall be declared elected and shall take office at the close of the meeting. The present officers are: Chair – Peter Brown; Vice-Chair - Louis Stout; Secretary - Jim Griggs.

Discussion – Mr. Stumbo nominated Mr. Brown and Mr. Stout to continue to serve as Chair and Vice-Chair, respectively. Chairman Brown nominated Ms. Wanda Howard as Secretary, as he has reviewed the by-laws, and since she has been a faithful staff member to the Board for years, and has done an outstanding job. Ms. Howard declined the nomination. Mr. Stumbo repeated this nomination, which was once again declined by Ms. Howard. Mr. Stumbo then nominated Mr. Griggs to continue to serve as the Board's Secretary.

Nominations Closed and Action – Chairman Brown asked if there were any other nominations. There were none. He then called for a vote on the nominated slate of officers. The Board's vote was unanimous (Stout absent) to approve the officers nominated by Mr. Stumbo.

- B. **Delegation of Secretarial Duties** – In the past, the duties of Secretary have been delegated to the Planning Manager or a staff member appointed by the Planning Manager.

Mr. Sallee reminded the Board that they may wish to consider the delegation of the Secretarial duties. Mr. Griggs and Chairman Brown requested that the Board take action on this item.

Action – A motion was made by Mr. Griggs, seconded by Mr. Stumbo, and carried unanimously (Stout absent) to delegate the duties of the Secretary to the Planning Manager or a staff member appointed by the Planning Manager.

V. **STAFF ITEMS** - The Chair will announce that any items a Staff member wishes to present will be heard at this time.

- A. **Revocation Hearing for C-2005-53: Fender Funeral Directors** – Mr. Hume asked for the Board to consider scheduling a revocation hearing for Fender Funeral Directors (C-2005-53), for property located at 1593 Russell Cave Road, as they have not yet installed required pavement and landscaping. In 2005, the Board granted this approval for a funeral home at 1593 Russell Cave Road. Mr. Hume would like to expedite their return to the Board. Chairman Brown called for a motion to schedule a revocation hearing.

Action – A motion was made by Mr. Griggs, seconded by Ms. Meyer, and carried unanimously (Stout absent) to schedule a revocation hearing for **C-2005-53: FENDER FUNERAL DIRECTORS** appeal for a conditional use permit to establish a funeral home at 1593 Russell Cave Road, for the Board's February meeting.

VI. **NEXT MEETING DATE** – Chairman Brown announced that the next BOA meeting date will be February 27, 2009.

VII. **ADJOURNMENT** - There is no further business, Chairman Brown declared the meeting adjourned at 1:42 PM.

Peter Brown, Chairman

James Griggs, Secretary