

MINUTES

**City of Milton Board of Zoning Appeals
Regular Meeting
October 16, 2007, 7:00 PM**

All Board Members Were Present: Heidi Sowder
Gary Willis
Sandy Jones
Scott Kilgore
Marcia Parsons
Todd Chernik
Walt Rekuc

Meeting Leader/City Staff: Michael Tuller, Community Development
Angela Rambeau, Community Development
Mark Law, City Arborist
Abbie Jones, City Engineer
Jim Seeba, City Engineer

AGENDA ITEMS

1. Pledge of Allegiance
2. Call to Order
3. Approval of September BZA minutes
4. V07-013, 665 Hickory Flat Road, Jonathan Levy
5. V07-014, Birmingham Road and Birmingham Highway, Birmingham Corners, LLC,
6. V07-015, 649 Dunwoody Drive, Waterford Homes, Chris McCrary
7. V07-016, Freemanville Road and Henderson Road, APD Custom Homes, David Burre
8. Other business
9. Adjournment

PLEDGE OF ALLEGIANCE

MEETING CALLED TO ORDER

CHAIR HEIDI SOWDER:

Read purpose and charge of the Board of Zoning Appeals, and then called the first Agenda Item, Approval of the September 18, 2007 Meeting Minutes. Heidi asked if there were any questions or comments and there were none.

MOTION AND SECOND: Chair Heidi Sowder made a motion to approve the September 18, 2007 meeting minutes. Sandy Jones **seconded** the motion to approve the minutes. **VOTE** was called and was unanimous (7-0).

CHAIR HEIDI SOWDER:

Moved on to next order of business, which is the consideration of application for variances:

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

Called the First Agenda Item, **V07-013**, 665 Hickory Flat Road (Jonathan Levy-Horse Farm)

APPLICANT REPRESENTATIVE SCOTT REECE, 13685 Highway 9, Alpharetta, GA:

I am representing Jonathan Levy and his request for a horse farm located at 665 Hickory Flat Road, Milton, GA. The variance request is for the square footage of a structure exceeding 25,000 square feet and also a variance request for the 75 foot perimeter buffer, the recompense of specimen trees and the curb, gutter and sidewalk ordinance. I will start with the first one, the building size. The applicant is proposing to build an equestrian facility that is world class with horses that will be competing at the highest level of competition. The horses will be trained for hunter jumper and dressage. The regulation ring for this competition is 150 x 300 feet. The most logical process is for the horse and riders to be trained in an arena that is the size that they will be competing in. So that is where the request comes in. They need a regulation size ring to train the horses in all weather conditions. It will be an open-sided covered arena similar to the arena at Wills Park or any number of ones that are on existing horse farms in the City of Milton. That is the first request. The second request is for the 75 foot buffer. The applicant feels that this purely an agricultural enterprise and should not be held to standards -- I guess it is an interpretation of the ordinances with the new City of Milton as opposed to when it was Fulton County, since this is the first horse farm that I have been involved with that we are coming before where we are treating it as I guess a commercial business the same as if it were a shopping center or multi-family. The applicant simply does not understand where a horse farm on AG zoned property is held to the same standards of buffering against more highly dense zoned property or use properties, say residential or a special use permit such as a church. To actively pursue an equestrian activity, it requires grass. A 75 foot buffer around the property planted in trees would basically negate any use whatsoever of this property as an equestrian property.

Regarding the recompense on the specimen trees, the applicant has spent a lot of time working out his site plan for this particular piece of property. The placement of the buildings is such where he has a true use or viability of the horse farm. The location of the riding arena, the stable, the proximity to the accessory buildings, the hay sheds, the tractor shed, as far as creating a flow, the distance from the right-of-way of the road, as far as the paddock placement. Also there are unsuitable soils for septic systems and the stable is placed in the area of the unsuitable soils and the other buildings, so we are trying to save the suitable soils for the septic field line. So it is not just for aesthetic value or placement is not just random, a lot of thought was put into the placement of the building or the stable as far as safety. It was not just about the specimen trees so just put it there. A lot of thought went into the placement.

The final variances are for the curb, gutter and sidewalk. Again, it is an agricultural use. There are no sidewalks along Hickory Flat Road. It is probably less than 3/4 of a mile to the Cherokee County line. You have the proposed park across the road, a stream crosses the road and runs through the property and there would be a lot of filling or placement of an extension of pipe to be able to put a sidewalk in. For this area, it just does not make much sense to place a curb and gutter that starts at nowhere and ends at nowhere. So that is basically the layout of what my client, the applicant, is proposing. He is trying to keep the rural feel and keep some equestrian activity in the City of Milton and to make it a viable use

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

of this property; he feels he needs these variances to operate a horse farm. If he cannot operate a horse farm, he will sell it and it will be residential, single-family, one acre houses. That is basically the gist of what we are asking for.

CHAIR HEIDI SOWDER:

Is there anyone who would like to provide public comment at this time?

FRANCIA LINDON, 14810 East Bluff Road, Milton, GA. (Opposition)

It seems to me that the Birmingham Crossroads Overlay has been worked on a lot by people and if you start to make these types of changes in it, it is going to change the nature of what we were trying to attempt by putting in this overlay district. There is an equestrian center going up in our neighborhood. Actually it is not a commercial center, but a private individual, but his setbacks are 100 feet from any side roads or a path. He has to compensate for the specimen tree that he has to take out, so I think when you make those kinds of commitments to people that they have to abide by these things, you ought not to make exceptions for them, because that have to abide by them are going to feel like somehow they have been put upon to abide by the rules.

PAUL MOORE, 15290 White Columns Drive, Milton, GA. (Opposition)

This is a much simpler case than I thought it was going to be when I heard the applicant share his thoughts. Your charge is to determine what hardship exists in order to grant a variance from the considerations that were given by ordinance or by overlay. I heard the applicant share some wants and desires which I think should not be confused with hardship. What they are asking for is basically a sizeable entity here that is unlike anything else we have inside of Milton. He represented that there were other like size facilities, but I am unaware of any. If there are, I apologize for not checking that prior, but this is certainly a one of a kind in its area for the Birmingham Crossroads. I would like to create a visual for you of the Milton Football Field. A standard football field is 160 wide and 360 feet long. They are asking for 10 feet less wide and 60 feet less long with a top over it. So imagine capping the Milton Football Field that we all head to on Friday night. That is the size of the structure he is asking to put out into this pasture land. It is pasture land today. There are trees and open fields and meadows and this structure is not going to be hidden by those as applicant points out they want to take down some of the few trees that are there and also not necessarily comply with the recompense plan that is before us from Milton. He is basically asking to impose a \$67,000 hardship on Milton is what it amounts to. If the recompense is \$67,000 he is not willing to apply that to his own property. There is a plan where you can do recompense and provide that fund to the City of Milton, but they are not offering to do that. The 75 foot setback and 10 foot buffer are also an important part of this. He used the words like "enterprise" and "commercial use." This is a residential area. He talked about a horse farm. He is co-mingling words that are going to be confusing to this if you think about the fact that this is going to be a commercial entity. There are no ifs, ands or buts about that. There will be a lot of traffic coming and going. The fact that both sides are adjoined by residential properties, I encourage you to think about what would be left for those folks living next door and ask that you deny that this evening.

LEON COLE, 16700 Birmingham Highway, Milton, GA. (Opposition)

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

I have lived in the Birmingham community since 1968. A horse farm certainly is an appropriate business for AG 1 land there is no doubt about that. What is not appropriate here are the four variances that have been petitioned. The sidewalks for example. As I understand it, there is supposed to be a trail system developed in that particular area because the park is going to be nearby. The sidewalk type trail in lieu of payment would be fine. Perhaps he could work with the City and help for the development of a trail there if he did not want to cement there. To eliminate the tree recompense - why? This is no hardship on this property. It is 22 acres. Also about increase the maximum business size 25,000 feet to 45,000 feet. Like Mr. Moore said, it is compared to a football field. Regarding the buffers, you have to keep in mind your neighbors and that is why we have the standard buffers in the Birmingham Master Plan. It is a commercial enterprise that is going in there and do not let his threat of the owner selling it and having houses on one acre lots affect your judgment tonight. I thank you very much and I hope you will deny this petition.
Thank you.

RICK RAGGHIANI, 623 Hickory Flat Road, Milton, GA. (Opposition)

I am the property owner right next door. I have speaking on behalf of me and my brother. Actually there are two houses on the piece of property. We have 25 acres that sit side by side. Other than the sign going up - I talked with Mr. Reece. Yesterday he called me to explain what he was talking about doing and I will tell you all what I told him. That is I have to stand out against it until I know what it is. My understanding right now is that a 45,000 square foot riding arena he is talking about doing is going to be sitting literally next door to my house and the barn they are talking about doing is going to be sitting literally next door to my brother's house so, of course, we are concerned about that. Quite honestly, I have yet to see anything that shows - I would like to see something that shows their property, what they are talking about doing, and something showing my property next to it so that I can get a real honest feel about what they are talking about doing. Right now I really do not know. With that in mind, I will have to say I am opposed to it until I get more of an understanding of what it is they are talking about doing. Thank you for your time.

KURT A. NOLTE, 825 Dockridge Road, Milton, GA. (Opposition)

I would like to reiterate what the gentlemen in front of me have said and also, I would to add that this is in my mind a very serious and very damaging precedence that could be set by this. Right now the overlay specifies 25,000 square foot structure. If this is the first allowed, I am afraid there is not enough teeth left to stop the second, third, fourth and fifth 45,000 square foot structure. This is not what this area is designed for. It is not what the overlay says. When Fulton County created that overlay and Milton picked it up as policy today, I believe this would stand completely against that. Also, as we started the meeting regarding the three hardships that you can approve variances on. I also do not believe any one of those has been met. The hardships are all self-imposed. I do not think there is anything that forces this outside of the current investment from following the code, so I please ask you to deny it.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

SHARON MAYS, 15160 Highgrove Road, Milton, GA (Opposition)

I am here tonight to ask that you deny the request before you. Although I am a great supporter of equestrian activities and would love to be a part of that myself and would enjoy very much visiting the place, the request for the variances they are asking for does not comply with the overlay and could be very damaging to our following these guidelines in the future. First of all, it is a building and the building should be limited to 25,000 sq. feet. To allow 45,000 would set a precedent that would be so detrimental to the atmosphere that we are trying to maintain at Milton. It would be something I feel very seriously we could not overcome. The precedence is the key here and I ask that you deny it. Thank you.

LINDA FRIEDAGENT, 665 Hickory Flat Road, Milton, GA. (for Applicant)

I am Linda Friedagent. It is my brother that is building this barn. I think there is a lot of confusion here. My brother volunteered to buy this property and build a barn for my daughter who rides at the highest level Grand Prix Show Jumping. I think there are a lot of misunderstandings here. She is not building some factory where you are going to have as we call in the business "up-downers." She wants to breed horses so that someday maybe someday she will have something good enough to go to the Olympics on. A lot of the horses that are there are for her. This is not going to be commercial. I think there is some confusion here that this is some kind of big commercial business. That is not her interest at all, and I do not know how it has been misconstrued into that. She wants to have a couple of private people, but she does not have an ego that she wants to have tons of people coming in and out of here. She wants to just have a couple of people to help support this ongoing and support her aspirations for the Olympics and I can sort of understand about this indoor, but I cannot understand -- when we first looked for a site, we wanted to preserve all of the trees because I love trees and horses and gardens go together - they compliment each other. I love gardens and I love horses. When we first designed this, we tried to keep all of the trees. On the first design after spending a lot of money, we realized it would not work. What do we do? So then we had to move the barn around and unfortunately, the only place it would work is where those trees are unless we put it in the creek or something like that. I love having those trees and did not want to take away those trees. I envisioned a long driveway with trees on either side and big pastures and this is what I thought Milton was all about.

I feel like you want schools and students, but you do not want any teachers. And for the same thing, you want horses, but you do not want people that are really knowledgeable about horses in the area. I foresee less barns than more barns. I foresee a five star which is down the street that has 100 acres and is now a subdivision with a barn sitting in the middle of it. A brand new barn sitting in the middle of it and now it is just a big subdivision and I just do not understand why you would not be promoting this. This is an agricultural endeavor and why you are trying to turn it into a commercial one. I do not understand. I think there are a lot of misconceptions going on here about what we are trying to do. If I can answer any questions, I would like to. My brother has a budget and offered to do this for my daughter and it is not some big commercial ordeal that everyone is making it out to be. It is for her aspirations and her dreams to go to the Olympics and try to help that along and it has been turned into something totally different. I just want you all to know that I want it to look nice. I have to deal within my budget and it will be done within a period of time, but I love trees as much as I love my horses and I am not trying to bring down these trees just for aesthetics. That is completely erroneous. If anybody wants to ask me any questions about it,

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

I will be happy to talk to them about it, but I just see less and less open spaces when you discourage people to build something like this. It is not a threat, but I am just saying when you make it difficult to try to do this on a budget. When you have horses you have to have a lot of land and when land is going for outrageous prices, something has to give. We are just doing the best we can. I just think it is going to drive all the horse properties away. I know that there are two horse properties right now that are almost ready to go into foreclosure that we are considering looking at, but they are going into foreclosure for all of the reasons that we are talking about. It is sort of ironic that here you want this to be a horse area, but yet there is nothing to bring horses in. There is nothing to encourage this. You are making this into a business not agriculture. I do not get it. A lot of these big horse properties are selling out to the subdivisions. When someone comes in and wants to buy land, you are saying no. I am very cognizant of my neighbors and making it pleasant for them and I do not want to have any problems with my neighbors. I want to work with them, but there is a monetary part to this that you will make it impossible on any level and we are trying to keep open spaces for these horses. There was a 100 acre horse property on Birmingham that was relatively new and it is gone. It is now called Blue Valley. Again, this is not a commercial venture.

CHAIR HEIDI SOWDER:

We appreciate your comments and will ask questions later. Is there anyone else who wishes to comment? There were none.

DISCUSSION:

WALT REKUC:

I have a question for the applicant. Do you have the percolation data with you?

APPLICANT REPRESENTATIVE SCOTT REECE:

I do not have it. It is not percolation data, it is level three soil surveys.

WALT REKUC:

Okay, do you have that with you?

APPLICANT REPRESENTATIVE SCOTT REECE:

I do not have that with me. The area where the proposed - I do not know whether you guys have the site plan -- where the proposed stable that is darkened in here (referencing from site plan for Board). This area has unsuitable soils.

WALT REKUC:

What soil classification are you referring to?

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

APPLICANT REPRESENTATIVE SCOTT REECE:

Hard labor. It is unsuitable for septic field lines. The area in the paddocks is of suitable soil for that. It is a different soil series. This area where we are proposing to put the stable is a lower area topography wise and through many years of saturation with water runoff or the agricultural practices that went on and a hardpan was created -- I understand with soil series and I am going back 20 years to the University of Georgia, but I do not understand why you can be 100 feet away and it changes, but it does, so the placement of these structures - the building, the stable, the drive, is in unsuitable soil for the field lines.

WALT REKUC:

Okay, on your recompense of trees, I noticed there are some trees indicated on the plans and you are indicating that you wanted no recompense.

APPLICANT REPRESENTATIVE SCOTT REECE:

We are proposing to plant many trees on this site and there is also basically 150 foot impervious buffer along a stream that dissects the property. All of those trees will be saved in that area. Also, I think there are three other specimen trees that we have identified on the property that we are saving, but we have not done the full calculations as far as the recompense, but he is planning to plant many trees on there, but whether they are going to fully compensate for the trees that will be taken down on the recompense, I do not know. As a representative of my client, his feeling is it is an agricultural enterprise and he is being held to a higher standard than has ever been held for any horse farm that has ever been built in Fulton County. My explanation to him is that you are now in the City of Milton and you are playing with a different set of rules, but he is asking for relief from the recompense but he is proposing many, many trees.

WALT REKUC:

Okay, but I think it would be great if you could come up with that table to understand what that difference would be. Third question is on your maximum size of your building. In the overlay for the district it says that it is 25,000 for a single building. Let me ask two questions. Are you sure that the size of a dressage ring or hunter jumper, what is the size of that ring because I am pretty sure that it is not 45,000 because my daughter does hunter jumper. I am just asking a question. Is that the size it has to be?

LINDA FRIEDAGENT:

My daughter was long listed on the Olympic team for grand prix level and yes, when you are jumping a 5 and a half foot jump that is 5 or 6 feet wide and you have three of them in a row, you need some time to get ready and you need some time to recover. If you look at Conyers where the Olympics were, it is much larger than what we are proposing. The other thing too about the trees is my brother is willing to commit to lining the driveway with trees and certainly -- like I said, I love trees too, but I do not want to be forced to put trees -- especially when we have no water right now, to spend what you are talking about is about \$75,000 to plant trees and there is a good chance that they are not going to have any water. We do want to plant trees.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

WALT REKUC:

We are trying to help your case by asking the questions that I think you need to make sure that you answer, because if you are asking to have for certain reasons, I am trying to make sure you are justifying everything you are stating, so please understand I am not trying to give you an answer yes or no, I am trying to say let us make sure I understand what you are doing, so when you say no recompense for trees--

LINDA FRIEDAGENT:

No, he said he would commit to putting some trees.

WALT REKUC:

I understand that, but it says here in the variance request to eliminate the recompense. That does not mean reduce, it does not mean give some or take some, it means zero in my book.

LINDA FRIEDAGENT:

I think Scott said it perfectly. He feels he is being put to a higher standard for what this is as an agricultural piece of property.

WALT REKUC:

And that is what I am trying to help you with. I am trying to say to you, you are telling me that the only place you could put something is because of the percolation. I said great, show me the data. Show me the data you are basing that finding on and I can understand it a little better and if I do not have that information, it is a little harder for me to understand. The same thing with the trees.

LINDA FRIEDAGENT:

Like I said, in the original design, the trees stayed. When we first designed this, the trees stayed. When we went to do the perc test, nothing would work, so what do we do?

WALT REKUC:

I agree, but show us the tests.

LINDA FRIEDAGENT:

I can show it to you tomorrow.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

MARCIA PARSONS:

I have a question for the applicant. On the stream buffer area we have three specimen trees noted. There is pine, pine and red oak. Are you planning to leave those, it that what I heard?

APPLICANT REPRESENTATIVE SCOTT REECE:

That is correct. The only trees on the site plan in the area of the heart of the farm that will be removed at the stable. There is a 33 inch water oak, a 33 inch poplar, a 35 inch water oak and a 36 inch red oak. All of that area will be used for the stable and the drive. The understanding is critical root zone -- if we grade or build next to the tree it is going to die, so we are trying to be realistic. If we are going to be building a stable and paving a driveway next to this tree that has been undisturbed for 150 years, past experience says the tree is going to die, so we are not trying to pull anything. I understand that maybe there was some way that you could put two 22,000 square foot buildings side by side, but to me that is an abortion of the ordinance in and of itself. I grew up on a cow farm and I am not that familiar with grand prix. This is the information I am given that this is the size of a competition level hunter jumper arena. I understand from staff that once the first horse lesson is given at this property it becomes a commercial enterprise. I necessarily do not agree. I do not see any difference than the property I grew up on that is now Richmond Glen Subdivision. My family owned and farmed there for 135 years. We sold cows, we sold cotton and I really did not think about it the same as Coca Cola, but we did generate a product and sold that product, so I guess in staff's opinion that is a commercial enterprise. I do not necessarily agree with it, but I am trying to operate under the ordinance, so it is a commercial enterprise I guess once the first horse lesson is given or the first horse is sold. I sent to the Georgia Department of Agriculture to get their definition of a horse farm as an agricultural enterprise and this entity completely fits within the Georgia Department of Agriculture, Tommy Irving's Rule and Regulations. The Milton rules and regulations differ from that so we are trying to shoehorn a horse farm into the City of Milton ordinances. We are not trying to change the ordinances. It is not a Wal-Mart, it is a family equestrian facility.

Also, the other thing is I know we are back to trees. Horses eat grass and cows eat grass. If you want horse farms you have to have a level of grass to support that. Now there are 22 acres and we are going to run a full 150 foot section that is going to be set aside for trees forever perpetually in this stream buffer and the 75 foot setback. The viability of a horse farm - I do not know how many of you have an agricultural background - typically a horse farm wants a perimeter riding trail. You want to maximize your area and usability of the property so that is what we are trying to do. We are just trying to have a viable horse farm within the limits of that.

GARY WILLIS:

I have a question for the applicant. Will the building be lighted and if so, how and where and how long will they stay on and when will they go off? Any plans for night riding or training under the arena.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

APPLICANT REPRESENTATIVE SCOTT REECE:

If it will be lighted and that has not necessarily yet been discussed, it will be interior lighting, down draft - the City of Milton has luminescence rules as far as - there would be much less I would think than any tennis courts or softball fields or anything else. It would be lighting inside of the building facing down. You are talking about horses and will not be doing a lot of candle power to hurt their eyes or anything along those lines. We have not discussed timing. You know during winter time it gets dark at 5:00 pm. Maybe you turn lights on until 8:00 pm. or something. I have no idea.

LINDA FRIEDAGENT:

Again, I would be very respectful of my neighbors and if they said the lights have to be turned off at 8:00 p.m., I would be reasonable with that. If someone wants to ride at 5:00 p.m. in December we may need some light.

APPLICANT REPRESENTATIVE SCOTT REECE:

I think there could be some design that would keep the lighting - there is some confusion - the setback - I know one of the speakers was talking about how close. The ordinance says that any building housing animals has to be 100 feet from the property line. I guess the site plan is not available for public consumption, but we are not proposing anything against the property line. Everything is proposed in the center or away from the property line and you are going to have paddocks of horse pastures around the property line and a perimeter riding trail. I do not know how else to stress as far as horses equal grass.

LINDA FRIEDAGENT:

Horses do not eat trees, horses eat grass and if we put all these trees in there will not be any grass for the horses. Again, Milton has this horse on all of its logos and yet I do not think you are encouraging horses.

WALT REKUC:

The type of grass you are growing, what type of grass? Are you going with Bermuda?

LINDA FRIEDAGENT:

In the past I have grown Bahia.

WALT REKUC:

Does that not need more sun than shade?

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

APPLICANT REPRESENTATIVE SCOTT REECE:

I think Creeping Red Vesque is about the only grass that is going to grow well in the shade, but all grasses that have a high TDN are going to require full sunlight. Her farm is located around Macon. As we move further north, it is probably going to be an Orchard grass Vesque mix.

WALT REKUC:

Okay, second question - where is this area in relationship to the overlay, is it in the middle? Is it on the edge?

APPLICANT REPRESENTATIVE SCOTT REECE:

The Birmingham Crossroads Overlay, now many years ago the commercial district was 400 feet from the intersection. The overlay, I do not know. How far does it extend beyond the intersection?

WALT REKUC:

Let us ask the staff that question.

STAFF ANGELA RAMBEAU:

I would have to check on that. It misses it by maybe two or three lots.

WALT REKUC:

Depending on lot size, it could be huge. It could be 1,000 foot difference and then the other question about your 75 foot and 10 foot setbacks, are you saying that in no location you are willing to go with those types of setbacks?

APPLICANT REPRESENTATIVE SCOTT REECE:

I am answering for the applicant. He has a grass cow pasture, hayfield there now. If you put a 75 foot undisturbed buffer around that in trees around the perimeter plus the 160 stream buffer through the property, his usable area is null and void. He might have a one-half horse unit. It requires at least one acre of grass per horse and that is a good year. In a semi-draught year you are looking at two acres of grass per horse.

WALT REKUC:

So what is your usable acreage? Have you made that calculation with the 75 foot buffer?

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

APPLICANT REPRESENTATIVE SCOTT REECE:

I have not done the calculation on that. I know there is 3.7 acres that would be involved in the existing impervious that is already taken out of the 22 acres. If you did the perimeter around, you are looking at 3500 x 75 or 6.25 acres. I apologize that I did not re-read by notes from 6 months ago that stated 6.2 acres we calculated with a 75 ft.

WALT REKUC:

I think with the 6.25 you may be adding some of the other things twice.

APPLICANT REPRESENTATIVE SCOTT REECE:

That was a guess. The 6.2 plus the 3, so over half of his area would be dedicated to that. The other thing you have to realize is when your grass or a pasture is against trees, it is not the same because you have leeching and you need some area that is not adjacent to a tree for proper nutrition of a horse.

CHAIR HEIDI SOWDER:

Did that calculation of 6.2 include the 75 foot buffer and the 10 foot improvement setback?

APPLICANT REPRESENTATIVE SCOTT REECE:

The 10 is included in the 75.

CHAIR HEIDI SOWDER:

No it is not. My understanding is you have a 75 foot undisturbed buffer plus a 10 foot improvement setback.

APPLICANT REPRESENTATIVE SCOTT REECE:

So it is 85 feet?

CHAIR HEIDI SOWDER:

I am asking if you calculated the 10 foot improvement setback in that.

APPLICANT REPRESENTATIVE SCOTT REECE:

The 75 foot undisturbed. I am sorry, that was the 10 foot improvement setback, that is what you are saying. The 10 foot planted buffer is included within the 75 foot undisturbed.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

CHAIR HEIDI SOWDER:

No. The undisturbed buffer is an area that you are not encroaching on. The 10 foot improvement setback is provided so that if there were existing trees that the roots would not be disturbed.

APPLICANT REPRESENTATIVE SCOTT REECE:

My understanding from staff is that within the 75 foot along the perimeter of the property, we were going to have to plant to buffer standards a 10 foot strip within that 75, so we would have a 10 foot planted plus 65 of do not touch it and it would revert naturally.

CHAIR HEIDI SOWDER:

Mark, could you give clarification on that please?

MARK LAW (City Arborist).

No, the entire buffer would have to be planted. The 10 foot we could eliminate since there are no trees out there for that 10 foot to protect.

APPLICANT REPRESENTATIVE SCOTT REECE:

So, not only would we not just leave it alone, we would have to plant it to buffer standards ultimately.

CHAIR HEIDI SOWDER:

Where sparsely vegetated. I understand. Is there grass right up to the borders of your property?

APPLICANT REPRESENTATIVE SCOTT REECE:

Yes.

WALT REKUC:

If this was outside of the NW Overlay District, what would be the requirement for the size of the building as well as the setbacks for an agricultural use as this? Let us say it was not in this overlay.

STAFF ANGELA RAMBEAU:

Well any AG-1 property with a building housing animals would be required to have the 100 foot setback from the property line. That goes with the zoning and then that depends on the overlay. Every part of the city is in something. If it is not NW it is Crabapple, Birmingham or State Route 9. So everything not covered in those 3 are covered in the NW overlay.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

SCOTT KILGORE:

I have a question for staff. Could you clarify if this is in the NW Fulton Overlay or the Birmingham Crossroads Overlay?

STAFF ANGELA RAMBEAU:

It is in the NW.

SCOTT KILGORE:

So the Birmingham Crossroads Overlay does not come into this?

STAFF ANGELA RAMBEAU:

Correct. It misses Birmingham by about 600 feet.

SCOTT KILGORE:

And as you just said, the NW Fulton Overlay covers all of North Fulton, all of Milton other than those other overlays. So there is no place in Milton that is outside of that ordinance.

MARCIA PARSONS:

I have a question for the applicant. Could you tell me since you have done your preliminary soil studies, where you anticipate your septic systems to be?

APPLICANT REPRESENTATIVE SCOTT REECE:

I do not know if you have the site plan that shows the paddocks, but if you are looking at the entry drive coming up and we have a relocated existing house, the area NE of the driveway between the driveway and the existing house is all proposed paddock and in those paddocks will be the field lines for the relocated house and the bathrooms in the stables and that is what we are looking at as far as field lines. They will have to be sized per Fulton County Health Department Standards.

CHAIR HEIDI SOWDER:

Just a quick question about the tree discussion. You said you were going to be replanting trees along the driveway or replanting on this site. Do you have a total number of trees that you are going to be planting?

APPLICANT REPRESENTATIVE SCOTT REECE:

Now this is a preliminary count and he was hoping to plant some more trees around the buildings, but we had not gone through a full landscaping plan, but as of right now, we are proposing 30 trees on the site plan that he prepared with me.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

WALT REKUC:

You do not indicate the size of those trees. It could be 2 inch, it could be 4 inch, and it makes a difference in your recompense.

APPLICANT REPRESENTATIVE SCOTT REECE:

I understand that and it is cost and viability of the tree - the large the tree the harder it is for it to live and all of that type of thing. We were talking maples.

WALT REKUC:

You have to be careful what you put out there for the horses.

APPLICANT REPRESENTATIVE SCOTT REECE:

No wild cherry trees. We are trying to avoid the toxic trees.

SCOTT KILGORE:

I have a question for staff. Mr. Law, have you discussed with the applicant regarding the recompense of the trees. They are discussing planting some trees. Is that in any way recompense for the specimen trees they are proposing to remove and have you all discussed that?

MARK LAW (City Arborist):

We have not discussed it, but the trees they do plant on site if it is the appropriate size or appropriate species will count toward recompense. Does that answer your question?

SCOTT KILGORE:

It did, thank you.

WALT REKUC:

Question about your manure pile. Where will that be in relationship to the site? Are you putting that near any of the boundary areas for these residents? Where exactly will it be? Is it near the dumpster area? I just want to make sure of the understanding before.

APPLICANT REPRESENTATIVE SCOTT REECE:

We are looking at spreading some of the manure on the pasture land. The dumpster is shown on the site plan between the feed shed and the tractor shed. I have a more detailed site plan that I showed staff when I met with them. They were somewhat confused by fences that looked like they might be buildings and all so they recommended that we remove some things from the site plan. We are trying to put it in the most unobtrusive place on the property.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

CHAIR HEIDI SOWDER:

Anybody else have any more questions for the applicant?

APPLICANT REPRESENTATIVE SCOTT REECE:

If there are not anymore questions, just to try to rehash or close it up, I know there is some confusion about it being a commercial enterprise. The client is being forthright is saying there will be some lessons given. They are telling me that they will be boarding 5 or 6 horses and rest of the horses will be theirs. There will be mainly training and a few lessons, but there will be no show, there will be no mass gatherings and you will be looking at maybe 2 or 3 people coming in a day. It is a family equestrian agricultural facility that is being proposed. I understand that once the first lesson is given it becomes a commercial enterprise. I do not fully understand, but that is the definition, so it is.

Whenever I said that the property if it is not converted to a horse farm will be developed as single family, I was not stating a threat and I was not threatening anything. I was just trying to stress that properties in this area - I grew up in this area and I know the history - if it is not being used for an enterprise like a horse farm, then it is going to be developed as a residential use and that is simply the market, the land price we live in, the property taxes being what they are, and you are going to have a few people that will hold properties as an investment and wait for the timing correctly to flip it. Those of us who grew up here have seen the area change so much and we would like to see a few vestiges of somewhat rural characteristic left. This is a real world solution. If we are going to have green space, there is probably going to have to be some way that some one generates somewhat of an income. There income is \$500,000 horses on this property and there will be some lessons given. The logistics of training this type horse for this type activity requires an area of 150 x 300 to set up the jumping course, the steeple chase, whatever the terminology may be. Okay, that is the size of our training area, but we need to be able to train on a schedule and we need an all-weather facility to be able to train on a schedule. So that comes in with a covered arena, open-sided but covered, so it is a building. That is where we are back on the size of the building and it is what it is. If it was 50 x 100, but that is not what is required. You are talking about 1200-1500 pound animals moving at a full run to be able to clear these jumps, so the size is what it is.

We are back again on the trees. If you want horses you have grass. Grass and trees are two different entities. It is open space but it is in grass. That is basically in summary all I can say. The applicant has gone over with me what he is proposing and I have tried to make it work within the ordinance, but there are certain ordinances that will not work within that, so that is why we are asking for the variances for these four conditions. Thank you.

SCOTT KILGORE:

I have a question for the applicant that came up as you were speaking. This facility feels very large to me. If I was going to draw an analogy it would almost be like you were saying we building a 747 for personal use. My question is, I am thinking in the longer term - when you are done with this and the daughter grows up, starts a family and moves away, this is obviously going to change hands. Is that not going to turn into a larger scale commercial operation? I mean just because of its sheer size it has the potential in order for it to be

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

economically viable for another owner who is not as financial well endowed as you appear to be. I do not see how this could turn into something that would not affect the neighbors and I would like for you to address that please.

APPLICANT REPRESENTATIVE SCOTT REECE:

The adverse to the size of it is it is only 22 acres. It is not a large multi-hundred acre, so there are a limited number of horses that can be placed there. Unless it is a like facility with economics being what they are, if you pay 4 million dollars for this property, you cannot rent 20 stables and generate that kind of money. It will either be used for this type of facility with that base price or it will be developed as single family residential. The economics from a common sensible standpoint would not work out for someone to be able to pay land price plus development costs of this facility and rent 20 stables and give lessons for starters. The economics to me do not seem to work.

SCOTT KILGORE:

But do the economics of what you are proposing to build work for a future owner without ramping this up to become truly commercial enterprise. I understanding you are saying that you are not planning to operate it that way.

APPLICANT REPRESENTATIVE SCOTT REECE:

I understand. What I am trying to say is even though this one building is large, in the scale of commercial horse farms; the stable itself where the horses are centered is relatively small. We are talking about a 24-26 stable facility, so you are limited on the number of horses that are going to be on this facility by the sheer acres of land. One acre one horse is maximum. The price of the land and if the building is built, the stable is built and everything is put in, what someone would have to pay for this property, unless they are generating a lot of add-on value to the horses - I do not have the full equine background, but the closest thing I could come up to is a Lexington Thorough Breed facility where it is not in the numbers, but in the quality, so these are horses that can be valued at \$500,000 for this specialty. It is much larger in Europe than in the U.S. as far as the hunter jumper. It is the sheer size, the 22 acres. It cannot support 50-75 horses with everyone coming in - it is just not feasible.

SCOTT KILGORE:

Could it support shows and a higher level of activity that would be disturbing to neighbors? That is what I am asking.

APPLICANT REPRESENTATIVE SCOTT REECE:

It is zoned agricultural, and I do not think that without special use permits have shows and set up all of that. I think if you are raising corn on a property, that does not necessarily equate that you can set up a corn maze and have festivals there. I do not know. I guess that is a staff question. I liken that to Christmas tree farms. How do they do it? I do not know how the ordinance reads. I think that would come under a special use permit whenever it would change hands and would involving the licensing for that business. I do not think because you are agricultural you can just have a festival if you want to.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

SCOTT KILGORE:

Could I have staff address that please?

STAFF ANGELA RAMBEAU:

I am not 100% sure of the answer to that. I think you would at least need an administrative permit per event and it may need a use permit to allow the ramping up of the use. I would have to research that. I would like to add two points of information to the record, and these are from the staff transportation engineer and they were not included in the Staff Report: (1) curb and gutter is not required along this part of Hickory Flat Road since it is considered a rural section and the right-of-way recommends asphalt shoulder and (2) a sidewalk is not required as this part of Hickory Flat suggests having a trail.

APPLICANT REPRESENTATIVE SCOTT REECE:

As a follow-up to that, the NW Fulton Overlay required all streets, improvements, minor subdivision plats that curb and gutter be shown. We had to do this minor variance request. We knew it was not necessarily on that, but per procedure we had to make the variance appeal on that when the City of Milton adopted the NW Fulton Overlay. It is my understanding from Staff that we had to apply for that. We understood that it was not being held to the curb and gutter, but that we had to apply for the variance on that.

CHAIR HEIDI SOWDER:

I would like to make a motion to close the public hearing at this time.

MOTION AND SECOND:

Heidi Sowder made a motion to close public hearing. Motion was **seconded** by Marcia Parsons. **Vote:** 7-0. Motion carried unanimously to close public hearing.

CHAIR HEIDI SOWDER:

Called for a motion on this matter.

WALT REKUC:

MOTION to table this case to get some more information involving this matter to make sure I am making the best judgment possible.

WALT REKUC:

DISCUSSION REGARDING REASONS FOR MOTION:

I would like to see some more information on the percolation data and on the tree recompense and see some more farms in the area and what they are looking like and what are we trying to make this look like in the future, because we are trying to promote this area as a farm or equestrian theme to our community. I cannot foresee having an undisturbed

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

buffer along every area that we are anticipating having a horse farm. This seems to be to be quite unreasonable, because as the applicant said, they are taking 6.25 acres of their property and turning it into undisturbed buffer, which to me - I mean that is great, but if I lived next door I would kind of like to see the horses and see what is occurring. I think if we table this and worked on a couple of different things, maybe there is a way to make everybody feel a little bit less concerned and get some more information on the actual regulation size and just want to see that information and I think by tabling it we could get a little more information and perhaps work something out that everybody will be able to agree to.

CHAIR HEIDI SOWDER:

Okay, there is a motion on the floor to table the variance.

SECONDED for discussion by Sandy Jones

SCOTT KILGORE:

Asked Chair if it was proposed that they table all four of the variance. I think we need to deal with all of these individually if we are going to vote on them tonight, other than perhaps the tabling. It sounded like you were tabling all four.

WALT REKUC:

I was and the reason I was is because of the sidewalks and staff said how that should be handled. The second one being the tree recompense and again that is an issue where I would like to get some information from them. They are showing some trees on the plan but it is not indicated to what extent they are willing to do the recompense. I think by giving some time that would flush that out. In addition, we are talking about this undisturbed buffer and if it does have to be replanted, perhaps some of these plants may be going there anyway and if they actually work out all of these issues, perhaps it does not become a variance any longer. The third issue is about the building size. Again, just to make sure we completely understand. If we are going to be a horse community we need to understanding what exactly is involved for some of these activities. The fourth one again is understanding that buffer. If there some middle in there that perhaps a neighbor and everyone else could possibly work with, and that is why I think all four would be best to be tabled to try to work something else if that is possible.

CHAIR HEIDI SOWDER:

Vote: Okay, I would like to take a vote. The motion on the floor is to defer this matter for 30 days. Asked for a show of hands for everyone in favor of the motion. 1 member Walt Rekuc for and 6 Board members opposed. **Motion failed.**

SCOTT KILGORE:

MOTION AND SECOND: Scott Kilgore stated he was going to make a motion and deal with these variances individually. There are different issues with each one.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

CHAIR HEIDI SOWDER:

We can vote on each variance but condition each point - Point 1, 2, 3, 4.

STAFF ANGELA RAMBEAU:

They are broken up so you can make a motion and vote on each one.

SCOTT KILGORE:

MOTION: I am going to deal with them the way they are shown on mine. Starting with Part 1 which are the sidewalks. I would move that we deny the request to eliminate the sidewalks. Heidi Sowder **seconded** the motion to deny Part 1 for discussion.

DISCUSSION:

We are trying to establish harmony with this and the general purpose and intent of the ordinance is to provide a horse, bike and pedestrian friendly multi-use path along the public roadways and provide connectivity for non-vehicle traffic. To request no trails or compensation for the City of Milton is 180% in odds with the intent of that ordinance. I believe we could make this in harmony if the applicant was willing to either provide for an alternative pathway instead of a traditional sidewalk. As staff as mentioned, there is not a requirement for curb and gutter. I think the applicant was under the misunderstanding that there was. Either that or the Milton Sidewalk Fund should be funded. My motion it to deny, but if the Board feels that we can approve it with those conditions, then we can go that direction too. This is at odds with the intent of the ordinance.

TODD CHERNIK:

Would you accept an amendment to your request to deny? The amendment being to follow staff's guidance and request escrow funds equaling the construction costs of required sidewalk or trail along Hickory Flat Road would be contributed to the City of Milton Sidewalk Fund.

HEIDI SOWDER:

Okay, Todd Chernik has made a motion to amend and Scott Kilgore has agreed to have the applicant provide funds equaling the construction costs of the required sidewalk or path along Hickory Flat Road be put into escrow. Okay, do we have a second? Motion was **seconded** by Scott Kilgore.

HEIDI SOWDER:

Okay, we will go ahead and vote on the amendment first and then address the original motion. **Vote:** Those in favor of the proposed Motion to Amend to include that the applicant provide funds in escrow for the sidewalk or paths on Hickory Flat Road. 6 members in favor and 1 member, Walk Rekuc, opposed. Motion carried.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

HEIDI SOWDER:

Okay, we will move on to the original motion which will include denying Part 1 of the variance to eliminate the required sidewalk and to amend that to say that the escrow is provided. **Vote:** 7-0. Motion passed unanimously.

SCOTT KILGORE:

Made a motion on Part 2 to deny.

HEIDI SOWDER:

Okay, there is a motion on the floor to the second variance to eliminate the requirement for a tree recompense for the 5 specimen trees. Seconded by Sandy Jones.

DISCUSSION:

Again, I am dealing with the ordinance and whether it is in harmony with the general purpose and intent. The purpose and intent of the ordinance is to compensate the citizens of the City of Milton with a loss of decade or century old trees. These trees have aesthetic and environmental value and that must be replaced either by tree replacement or recompense, therefore removal of these trees without replacement or recompense is obviously in discordance with the intent of the ordinance and not in harmony and I do not believe it could be made in harmony without some form of recompense. I think the second possibility of making it in harmony is not possible either. I do not believe there is a hardship in this case. There are 22.5 acres which is plenty of room to develop the site without having to encroach into the buffer or to remove all of these trees. The owner is choosing to place all of the structures where the trees are. If the owner does not wish to recompense for the specimen trees, they can relocate the structures. They have other choices and can do other things. Therefore, I do not think there is a hardship here. The property does not have any exceptional or extraordinary shape or topography that forces the removal of these trees, so that is the reasoning behind my motion to deny.

HEIDI SOWDER:

Okay, there is a motion on the floor to deny the second variance to eliminate the requirement for a tree recompense for the removal of the 5 specimen trees that was **seconded** by Sandy Jones.

Vote: 6-1. Gary Willis opposed. Motion carried to deny the second variance to eliminate the requirement for a tree recompense for the removal of the 5 specimen trees.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

SCOTT KILGORE:

Made a **motion** to deny the 3rd variance to increase the maximum building size from 25,000 square feet to 45,000 square feet. **Seconded** by Sandy Jones.

DISCUSSION:

SCOTT KILGORE:

Read the purpose and intent from the ordinance. One of the portions of the ordinance deals with limiting building size within the overlay area to **25,000** square feet. The applicant is requesting a building size in excess of that amount and therefore it is not in harmony with that intent. I do not see anyway it could be made to be in harmony because I do not think there is anyway to make a 45,000 square foot structure appear to be a 25,000 foot structure or in any way to change its design characteristics to make it look like the size structures that Milton has chosen as its maximum. I do not believe there is a hardship in this case with respect to size. Again as I stated, there is 22.5 acres and that is plenty of room for many types of developments, including equestrian, residential or other agricultural uses, so the city is not denying the applicant the use of the property for development. Nothing extraordinary or exception with regard to shape or topography. Even if someone wanted to try to make a case for a hardship in this case, there would be a detriment to the public. It is a large commercial building and it would because of its size degrade the rural character of the area and our approval of this would erode Milton's legal footing for enforcing its standards. If we begin to approve these things just because someone wants to do it, then the body of our decisions forms board policy that can be used against the city in a court of law so therefore we have to uphold the standards. If the City of Milton wants to change the standards and I have heard this discussed earlier, if they want these types of facilities without buffers and so forth, then the City of Milton, Mayor and Council can change those standards and the City can decide on that. I do not want us to be changing those standards by allowing it because somebody wants to do it, so that is the reasoning behind my motion for denial.

HEIDI SOWDER:

Any further discussion?

WALT REKUC:

I have a question for staff. If they wanted to build a 25,000 and a 15,000 square foot building right next to one another, again that would still keep it below the square footage requirement. Would there be any problem with them doing something like that?

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

STAFF ANGELA RAMBEAU:

I think it comes down to building codes.

WALT REKUC:

Again, if this is truly the size that has to be done for competition, I am not saying that you are going to have numerous of these occurring throughout the area, but if it is, it is something we could live with. Many times when you have a high-rise building and it is adjoining a property line you feel that it is more than what the area could take of. Typical regulations you would ask that the building be moved further from the property line. If it were moved further from the property line it would perhaps not look as large. I do know by looking at the design it is a good ways off of the street. Whether anyone would ever recognize it being a 45,000 square foot building or a 25,000 square foot building, I doubt that would occur, but again, I can understand their hardship if this is truly the size they are doing. I know there are other farms just up the street on Birmingham Highway that look like they have a huge riding ring. So I think this is a case where I could understand someone asking for something like this and maybe looking at perhaps moving a little further back from the property line to work with the neighbors. That is why I was asking for a table to work those sorts of issues out. I understand what you are saying about trying to be in harmony, but again, I think there are certain cases that simply because of what the use is going to be it is going to require something of that size. If we are truly going to embrace this as an equestrian community, I think we need to think about how we are going to do that so that it does not impact the area.

HEIDI SOWDER:

I do not know if the question was posed to staff, but is there an inventory of similar facilities in our city currently and the size and square footage of any covered riding arenas?

LINDA FRIEDAGENT

There is one on Birmingham Highway that was built about two years ago. Shannondale. It is probably about the same size. There are several of them.

STAFF MARK LAW:

You are asking about similar buildings and similar sizes. The one on Hopewell Road is approximately 50,000 square feet. The one on Hopewell and Bethany.

TODD CHERNIK:

I would echo Scott's point. Given the Birmingham Overlay District and the extensive time that the community spent in developing standards for that area, and other structures within that area including the Publix development, who had to adhere to those strict standards, I think it is important for us to recognize that as from a hardship standpoint, the intent of that overlay district would make this structure not in harmony.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

SCOTT KILGORE:

I heard some valid points and I am not discounting those. I think Milton needs to address this issue. We do have a horse on our logo. We do want this kind of use, but Milton needs to address this. The mayor and council need to address it and come up with new ordinances that will support this and take into account these things. It is not for this board to set new policy and that is what I feel we are being asked to do and that is why I am asking for denial on this particular case. I do agree that I would much rather have this than 20 new houses sitting there. I am not against the use; I just want it to be done by the standards that Milton has set forth.

HEIDI SOWDER:

Okay, so we currently have a motion currently on the floor to deny the 3rd variance request to increase the maximum building size from 25,000 to 45,000 square feet.

Vote: 5-2 in favor of the motion with Walt Rekuc and Heidi Sowder in opposition. Motion carried.

HEIDI SOWDER:

We will move on to the 4th and last variance.

SCOTT KILGORE:

Made a **motion** to deny the 4th variance.

We have discussed the uses and by definition this is a non-residential use. The purpose of the 75 foot buffer is to protect residential citizens from non-residential uses by providing a substantial physical and visual buffer. The intent of the improvement setback to protect existing natural screening. To eliminate the eliminate the physical and visual buffer and thereby remove the protections intended by the ordinance. I do not see anyway it could be made to be in harmony because the protection for neighboring citizens cannot be afforded if we eliminate the buffer. The 10 ft. improvement setback could possibly be eliminated because as the arborist, Mr. Law, has stated there are no existing trees there now. But, the request is to eliminate both, so we have to approve or deny both. I do not see a hardship here; there is 22.5 acres and plenty of room to develop the site without having to encroach into the buffer. It may not be developable with this plan for this particular desired use, but it is a developable piece of land. Again nothing extraordinary regarding shape or topography. The property is rectangular and relatively flat. I do not see a hardship here for development of the land. I do see a hardship for doing what they want to do, but I definitely do see a detriment to the public if we were to approve this because we would remove the protection from the neighbors which is the whole point of the ordinance. This is the reasoning behind by motion to deny.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

HEIDI SOWDER:

Okay, so we currently have a motion currently on the floor to deny the 4th variance to eliminate the 75 foot buffer and 10 foot improvement setback.

HEIDI SOWDER:

Do we have a second? Motion was **seconded** by Gary Willis.

WALT REKUC:

I really do not think 75 feet is really appropriate for a farm. Whether we could have worked things out with the neighbors or not, I think that is something I would still prefer to be worked out if there was anyway possible. I understand the harmony, but I think the 75 feet is way over what is needed with a horse farm. With the use for a subdivision, then maybe that is a different case, but I think mayor and council really need to look at this and see what needs to be done in farming areas. If this was going to be for 14 chicken coups, maybe 75 feet is not enough, but again, it depends on the use, so again I really would have preferred we looked at it further and worked on a little more before just coming out and just saying no, but I think the 10 foot improvement setback I know there are certain areas where it does not look like there are problems with the 10 foot improvement setback. There only looks like there is really only one area on the plan that has an impact on the 10 foot improvement setback and that is the area where the gravel road is. It may have been simpler to say, we ask for something in this area versus just saying no to everything. Those are my general comments. I know I can show many people farms that are doing quite well with very little buffers. Just one planted row of trees or shrubs and doing real well.

TODD CHERNIK:

The way this variance was worded makes it difficult for this Board to come up with something that is a compromise or a workable solution. Specifically, coming forward with words like *to eliminate* the 75 foot buffer and 10 foot improvement setback entirely makes it difficult for this Board. Furthermore the lack of information for the plan regarding screening and tree planting also makes it difficult for us to make decisions on these matters, so should you decide to come forward, I would highly recommend provided more of this type of information and avoid certain wording like *eliminate*.

HEIDI SOWDER:

I would like to add to that myself, because I guess my understanding of a 75 foot buffer is that there are existing trees and things that should not be disturbed. I understand that a buffer is just that, a buffer. The space to provide protection for adjacent homeowners as well. Because with this one there are no existing trees it stumps people about that too so I would agree with those comments as well.

Vote: 5 members voted for denial and 2 in opposition, Walt Rekuc and Heidi Sowder.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

HEIDI SOWDER:

Called for the next agenda item. **V07-014**. It is my understanding that the applicant is not here this evening and has asked that this be deferred until November.

MOTION AND SECOND: Heidi Sowder made a motion to defer **V07-014**. **Seconded** by Todd Chernik. Vote: 7-0. Motion carried unanimously.

HEIDI SOWDER:

Called the next agenda item, **V07-015**. 649 Dunbrody Drive, Waterford Homes.

APPLICANT CHRIS McCRARY, 4174 Silver Peak Parkway, Suwanee, GA.

Introduced Reggie Lopes, Division Manager for Waterford Homes.

We are here this evening to request a variance to reduce the 10 foot improvement setback that is adjacent to the 25 foot buffer. Showed board where property was located from site plan board. I would like to point out and Mark Law would agree with us that there are no specimen trees or significant trees. The intent of the 10 foot improvement setback is to protect the existing trees. I really do not see where that would be helpful in this situation. We are also proposing to replant since there are no trees in the 25 foot buffer, to go ahead and replant some of those to Mark's specifications. It is similar to what we did on the lots that are adjacent to us. Referenced from site plan board the 47 trees that were already existing. Want to keep as the rear entry driveway to the homes. This is the last of the rear garage entry homes on this road.

REGGIE LOPES:

That is correct. The rest of those houses that will be built along that road will be front entry manor homes, larger homes on larger lots. This is the last one.

APPLICANT CHRIS McCRARY:

The intent of the Crabapple Overlay, of course, in some of these homes is to pull the buildings up closer to the street frontage, have rear entry garages, and I think these five along this street frontage meeting the intent of that. As far as making this in harmony for the general purpose and intent of the zoning ordinance, I would argue that replanting that buffer actually enhances the buffer what it would be had we not asked for the variance, so in my belief, this is in harmony with the general purposes and intent of the zoning ordinance.

HEIDI SOWDER:

Anyone have any questions for the applicant?

WALT REKUC:

What is the blue pole back in the photo?

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

APPLICANT CHRIS McCRARY:

There is a Georgia Power easement going through there.

REGGIE LOPES:

Explained to Board what they were looking at in their package.

WALT REKUC:

So it clipped off the very top showing where the wires would go. They cropped the photo so you cannot see all of it. The buffer that you are planting will not intersect that transmission line? Are you going to have a problem with that?

REGGIE LOPES:

I have been in discussions with Georgia Power about taking out the recommended list of trees that have been approved to go into the buffer, so we will actually have to change species once we go into their buffer because they are pretty strict on what we can plant.

WALT REKUC:

It may not just be Georgia Power, but could be a gas line and phone line as well.

JOHN MCCRARY:

The plat does not indicate any other lines, just Georgia Power. Mark Law and I have actually walked all that property and had discussions about this.

MARK LAW:

I did meet on site about this and what they are saying is right. There is an easement there and they will have to work with what Georgia Power allows them to plant. I have to head out to the emergency room now. One has severe asthma and I have to pick up the other one.

JOHN MCCRARY:

The only other thing I would like to add is that we do have letters from the adjacent property owners. Aside from one, they are not necessarily in disagreement. Reggie simply could not get in touch with the guys.

WALT REKUC:

On both of these projects we just looked at, I would really like to get a full blown plan to look at. These 8 1/2 x 11 do not help when looking at power line easements, etc. I cannot read them without a magnifying glass. I need to see all the information. It would help us to see it more accurately.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

MICHAEL TULLER:

You are talking about future plans - you want full size plans?

WALT REKUC:

Absolutely. Whatever they give you make sure there is enough for our packages. Whatever they give you, please give it to us.

MICHAEL TULLER:

We can do that.

HEIDI SOWDER:

Any more questions of the applicant? There were none.

HEIDI SOWDER:

MOTION AND SECOND: Heidi Sowder made a motion to close public hearing. **Seconded** by Todd Chernik. **Vote:** 7-0. Motion carried unanimously. Opened up floor for a motion on V07-015.

MOTION AND SECOND: Gary Willis made a motion to approve the variance request subject to staff conditions. **Seconded** by Scott Kilgore. **Vote:** 7-0. Motion carried unanimously to approve the variance.

WALT REKUC:

Asked applicant if it was his sign that was approved for a variance and when he was going to fix that sign?

REGGIE LOPES:

Working on changing sign within two weeks.

HEIDI SOWDER:

Called for the next agenda item. **V07-016, Freemanville Road, APD Custom Homes.**

APPLICANT DAVID BURRE, 10675 Stroup Road, Roswell, GA

I am here to speak to you about a grade greater than a Fulton County variance that was granted. It was at one time purported to be in excess of 14% and they granted a 1% variance to the grade to 15% by Fulton County. Several different As-builts were submitted by the design engineer and surveyor. It was not my firm that designed this project. I am just here helping with the presentation this evening. The final design shows that a portion of the

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

street was actually greater than 16%, so therefore the Fulton County variance did not encompass the additional 1% of error of the street design, and for that reason I am here before this board asking for your consideration to either approve or deny the request and allow 88 feet of that street to be in excess of 16% grade. 286 feet of that street is greater than 12%, so I am not saying that the street does not have problems. The design engineer was following a topographic profile that was severe close to 1%-16% grade. He designed it with the intentions of not exceeding 14% to be constructed by the contractor. That did not happen. I do not know if it was the surveyor's fault or the contractor's fault, but it probably was not the developer's fault. When the As-builts first came to me they purported that that was the extreme condition being 15% and later date I had revised As-builts being submitted to me through the owner that said the condition actually existed at 16%. Fulton County tried to correct it with one variance did not include the error of 16% and that is why I am here tonight. I think that because of that you also have the purview to rethink or reconsider the Fulton County variance for the 14%-15%. Where the error occurred goes down into off of a street grade that is existing into a cul-de-sac. If this street grade were adjacent to an intersection where it would be dumping traffic at an extreme grade onto a thoroughfare I would be more concerned than where it is occurring which is on a cul-de-sac. I do not know what you have in your package, but I do have some visual aides if you would like for me to walk you through those. If we did have inclement weather whether it be ice, snow or rain, the traffic that would be affected for breaking would be inbound traffic, not something going out onto the thoroughfare where they might be a serious collision. The only hardship I can assert to you is the design engineer was going down a very steep hill for that road location with lots left and right and did not have a lot of flexibility to reset the road pattern. I do think that this can be controlled with two different methodologies. One would be to go in and tear the street out at great expense to the developer and I do not know that it was necessarily his fault. The second is maybe we can consider reducing the street sign posting to reduce the velocity on this street so that the people coming into this subdivision would not get up to 25 or 30 mph to try to compensate for the steepness of the street grade. Those are not perfect answers, but things for consideration.

Mr. Burre showed the Board the applicable areas from his site plan presentation.

HEIDI SOWDER:

Was this an existing street?

APPLICANT DAVID BURRE:

It was designed and constructed at 14% grade and approved by Fulton County. They realized early on that the mid portion of the street was greater than 14% and reported it to be 15%. Fulton granted a variance and I found out. Again, the developer brought it to be because he and the design engineer are not best of friends right now.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

WALT REKUC:

I have a question for the city engineer. On the percent grade, what are your recommendations for this issue? I want to make sure we address your concerns.

STAFF ENGINEER JIM SEEBA:

I have briefly looked at this project. It is a private road and not to be owned by the city. Just taking brief notes I denoted 22 deficiencies in the road, the right-of-way, etc. This particular issue I looked at but there were so many other issues on the plat that were not defined, that I really did not want to pass judgment on this particular issue in an isolated forum like this. I want to really take a look at the entire development as a whole and see what works and does not work and then pass judgment.

HEIDI SOWDER:

You are saying that there are more than just issues regarding the road.

STAFF ENGINEER JIM SEEBA:

There are quite a few issues that I have concerns with on this project.

HEIDI SOWDER:

Are those issues included on the punch list that is referred to?

STAFF ENGINEER JIM SEEBA:

Yes, we developed the punch list from the final plat that was delivered to us and I have seen a number of other items out in the field as well that I would like to add to that. I would be happy to go over that with the client.

HEIDI SOWDER:

So the punch list we have is not complete. You would like to add to that.

STAFF ENGINEER JIM SEEBA:

That is correct.

MARCIA PARSONS:

What length of time would you need to address these issues and some unknowns you are not sure about?

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

STAFF ENGINEER JIM SEEBA:

We would be happy to meet with the developer at any point. We do have a list that he has and I would be happy to go over mine as well. I would like to work out all of these things at one time so we have a real clear picture of what we are voting on.

SCOTT KILGORE:

I have a question for staff. Regarding the survey of the property, do you anticipate additional variances coming to this Board as well?

STAFF ENGINEER JIM SEEBA:

I think there are going to have to be some modifications to what I have seen out there. Hopefully not if they make the changes that we are asking for. That is what I am trying to avoid is these numerous meetings.

WALT REKUC:

If we do not act within a certain time period, even if additional variances are requested, from what I see on our calendar, it takes 60 days for an application to be filed to a time in which we get to hear the case, so anything we do with this if we are considering tabling it, would be for more than a 30 day period. The question to staff would be if we table, can we table for more than 30 days.

CHAIR HEIDI SOWDER:

It is my understanding is that we can defer for 30 days and when it comes up again, we can defer another 30 days if necessary.

WALT REKUC:

Is this precluding the ability for the applicant to record the plat? Has this plat already been recorded and subdivided?

STAFF ENGINEER JIM SEEBA:

No, it is not a recorded plat. They would make right-of-way improvements to Freemanville so that part I do not think has been dedicated.

STAFF TRANSPORTATION ENGINEER ABBIE JONES:

Fundamentally for somebody to get a final plat approved you must have adequate As-built that has been approved by not just a construction inspector for community development, but also by Public Works and those do not exist. That is why punch lists have been developed and that process continues until the inspectors feel that everything in the field meets what is on the design drawing and that has not been fulfilled. Part of our concern is that the punch

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

list has been shared for quite sometime now and we have not been seeing progress in the field.

WALT REKUC:

Oh - that is a horse of a different color.

CHAIR HEIDI SOWDER:

Does applicant have a rebuttal?

APPLICANT DAVID BURRE:

I have had personal problems getting as-built information responded to from the surveyor and engineer and I think it may have something to do with him maybe not getting paid for certain services rendered. I am kind of in the middle here. I have no comments at all in conflict with what you just heard, but I also have no knowledge of any requests that have not been fulfilled. Had I have known that I would have disclosed that when the meeting started. I apologize for not knowing as it was kind of a surprise to hear that although as I said, I also have had problems getting as-builts that are stamped and signed that did not show up several days later with different information on them and it has kind of been a paper chase to get this pinned down. I will only tell you that if we do not vote on the changing of the street grade tonight, we are going to close the door on the developer's ability to probably get that done until next spring based on the time of the year. One of the things we may be able to do would be to reduce the signage posting or tear it out and redo it, but if we do not vote tonight with this being the middle of October, usually by the time you get to Thanksgiving that option would disappear as being very realistic because of the weather. When it starts raining and the weather gets colder, then it freezes.

WALT REKUC:

So you are saying for asphalt the grade has to be changed and the minimum temperature for that has to be 55 and rising or 40 and rising.

APPLICANT DAVID BURRE:

And another issue that we brought forward to staff is that my client is willing to post up an extended bond for an additional percentage of money. I think he is not desirous of removing the asphalt anyway, but I wanted to make sure that that option in mind would close very quickly. When it is cold and raining and moisture is in the air you will not be able to fix that pavement this year. This is not what he sent me here to ask for. He would like to either increase the bond and extend the bond or reduce the speed limit for the street. The other engineering concerns are worthy of your attention and I do not when the appropriate time for that might be, but I will leave that to your best judgment.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

SCOTT KILGORE:

I have one more question for staff. It sounds like what you are saying to us is that because we have several things going on at the same time, to deal with this issue individually may not make sense or may complicate those other issues. Is that a fair statement?

STAFF ENGINEER JIM SEEBA:

That it is in a nutshell.

WALT REKUC:

But why is that? If we agree to allow the 16% grade or did not allow it, they still need to fix it and no matter what you say, you would have to either get them to fix it or they would not get approved either. In other words, by us delaying our decision be it one way or the other, it could make things longer. So maybe it is better that we make a decision and that way you would know that that one issue should or should not be addressed.

STAFF ENGINEER JIM SEEBA:

That is going to be your call, but before I would pass judgment on this road, I would like to see a really thorough as-built and would like to see the proper drainage because I am not sure what it is doing out there. I am not sure about the vertical curves and I would like to make sure that rather than pass judgment on this one isolated incident that we look at the whole picture and make sure we are getting a good road.

WALT REKUC:

So are you saying that the as-built surveys shown by the applicant may not be what are actually out there in the field?

STAFF ENGINEER JIM SEEBA:

It could not be. If that was actually done by another firm other than Mr. Burre's firm. What I saw in the field I could not really verify that this is what I am looking at on this piece of paper. We have some questions about the way the road drained and whether it would drain properly.

WALT REKUC:

How would you verify if what you have gotten is correct or not?

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

STAFF ENGINEER JIM SEEBA:

Well how do you verify anything? You have to trust the professionalism of the applicant and his drawing, but if I see something that looks out of whack it is going to raise a red flag to me.

WALT REKUC:

Or you could hire a surveyor.

STAFF ENGINEER JIM SEEBA:

And we could, but if it looks reasonable and I can see that it is going to work right in the field, but I saw some red flags.

TODD CHERNIK:

The items on the punch list, is it your opinion that the applicant could make substantial progress between now and the next meeting on those punch list items or are those longer time need items?

APPLICANT DAVID BURRE:

Based on past history it could take a while but we will work with them. We are here.

CHAIR HEIDI SOWDER:

Okay, if there are no other questions or comments, I will make a motion to close the public hearing. **Seconded** by Todd Chernik. **Vote:** 7-0. Motion carried to close public hearing.

MOTION AND SECOND: Scott Kilgore made a motion to defer this variance for 30 days. Heidi Sowder **seconded** the motion for discussion.

TODD CHERNIK:

Asked Scott Kilgore if he would entertain adding staff's comments expecting substantial progress on the punch list items as a condition to your motion.

SCOTT KILGORE:

Yes I would.

TODD CHERNIK:

I am requesting the motion be amended to include staff's conditions to the applicant to show substantial progress on the punch list items.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

SCOTT KILGORE:

Seconded the motion to amend the motion to include staff's conditions to the applicant to show substantial progress on the punch list items.

Vote: 7-0. Motion to amend carried unanimously.

HEIDI SOWDER:

Okay, now getting back to the original motion to defer the variance for 30 days.

DISCUSSION:

WALT REKUC:

On the percent grade, if it is truly 16%, I have personally approved some streets (named several streets) in Roswell. We want people to try to keep to our regulation standards, but at the same time, sometimes topography did not allow that to occur. So I am aware of many streets that are functioning quite well. Staff is very correct. You do need to look at what is going on with your water and how quickly it needs to get off of the street so it does not become a problem when it hits the bottom of the street. Need to look at some other streets that are over 16% and see how they are functioning.

HEIDI SOWDER:

And to add to this, it is my understanding that this is a private road and once the neighborhood is built, it will be the homeowners' association's responsibility to maintain this road.

STAFF ENGINEER JIM SEEBA:

In theory that is correct, but they can always petition the council to accept that road in the future so it is supposed to be built to city standards.

TODD CHERNIK:

I think it is important to note that the staff has provided guidance consistent with your points and it is in the applicant's best interests to focus on the punch list items and show significant progress so I think staff concurs with your points.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

HEIDI SOWDER:

Okay, so we have the original motion which was to defer the variance for 30 days and it has been amended and approved to add that the applicant shall show significant process regarding the punch list items provided by the City of Milton.

Vote: 7-0. Motion to defer for 30 days with conditions carried.

APPLICANT DAVID BURRE:

Asked board and staff if he could be provided with a copy of the punch list items.

NEW BUSINESS:

HEIDI SOWDER:

I would like to discuss our regularly scheduled briefings. We had originally way back in May or June; Walt had put forward a motion to have our briefings be the evenings of the actual regularly scheduled meeting to begin at 6:30 pm. At times that is great if we have only one or two easy cases, but then if we get lengthier or more complicated cases and if people cannot make it to the meetings on time, I think we need more than 30 minutes to address them. And again, based on last week with certain people not being able to make it to tonight's briefing as well. I spoke to Angela about setting a regularly scheduled briefing the second Tuesday of every month at 6:00 pm. so that it is on the calendar and then also doing away with the briefing time that we have before the meeting on Tuesday nights, that way it may enable Angela to at least have a longer dinner time before the meeting. I would like to propose that we adopt that as our regular briefing time to allow us some more time and have it be a standard meeting and if it comes down to we do not need it, we can always say no, but at least it is on our calendar that we can plan for as a group each month and not have to do the juggling with our schedules like we have sort of encountered this past week.

SCOTT KILGORE:

I was speaking with staff before the meeting and I think we need to be sensitive to their personal lives and adding another night to the staff's schedule is pretty tough on them. I would suggest possibly another approach and I will just throw this out. I do not know officially what the Robert's Rules would be on proposing this, but perhaps we could meet on that Tuesday night and not require staff to be there and we could get our questions together and submit the questions to staff, let them process those during that week and then continue to meet at 6:00. That way staff is there to support us but they do not have to commit to another night. I know that they are struggling with support us and council and DRB and all the other evening meetings and we are putting a lot of stress on them, so I just wanted us to consider this angle as well.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

HEIDI SOWDER:

Okay, now if we all get together as a group, it has to be advertised even if it is a briefing, because it is an official meeting.

SCOTT KILGORE:

One of the things we discussed was that it did not necessarily even have to be in this building because they would have to have someone here to keep the building open and lock it, so we may have to find another place to meet, but that could still be an advertised quorum and meet the legal requirements. I just wanted to get that out there.

GARY WILLIS:

There are two comments I would like to make. One, I do not think that we as a board should be meeting any place that staff is not. Two, I think we have been together long enough as a board - six months, seven months - I think we kind of have everybody figured out and we all know which direction we are leaning and we all know what we are for and what we are against. I do not think we need any extra nights. We did really well tonight on three of them I thought just meeting an hour before.

SCOTT KILGORE:

But if we had not had the deferral on the other one though, that was a monster.

GARY WILLIS:

But we are doing much better and I know for one. I have two kids at home and a wife and the last thing I want to do is come out another Tuesday night and if all seven of us are not here and any four show up, it is not worth having a meeting anyway in my opinion. So I say keep it at 6:00 on the night of because we are all coming here anyway, including staff. We are doing a great job as a board and I do not see any reason to add any additional nights in my opinion.

HEIDI SOWDER:

My thing and it is just me individually, it is very difficult for me to switch gears from hashing all this stuff over and then I have to come in and chair the meeting, but that is me, so I may opt to just not come to the briefing and stay home and do some Zen or something.

WALT REKUC:

What if we still had the meeting at 6:00, but our actual public hearing did not start until 7:30 or whenever our meeting ends, that is when the meeting starts. If it takes more than an hour, I am sorry the audience is waiting, but that is just what happens.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

SCOTT KILGORE:

Is there some type of cap on the number of items on an agenda?

STAFF ANGELA RAMBEAU:

Not yet.

STAFF MIKE TULLER:

Some jurisdictions do.

GARY WILLIS:

We are not supposed to be back there making decisions anyway; we are supposed to just be talking about the cases. If we cannot talk about something in 15 or 20 minutes, we do not need to keep going on anyway.

HEIDI SOWDER:

And that leads me to the other comment that I made to Angela. I have repeatedly in my emails said to people, *please forward your questions on to staff* and I know that not many people have done that, so I would say that as soon as you get your packet, review it and if you do have questions that you need clarification on, to please forward them on to staff because it gives them time to do that and hopefully that is not too much of an inconvenience.

STAFF MIKE TULLER:

We relish that opportunity and really it is a better approach for us. One of these variances we were experiencing is cut and dry. You want to learn a little bit about the particulars, you need the applicant in the hearing, but a lot of your questions through the power of the Internet or even by phone. By using the Internet we can copy everybody so everyone has the same response to those questions and further responses. Not to avoid responsibilities, but we have a rather small staff here in the City of Milton, and we have a new comp plan update as you well know, a State Route 9 Overlay Design Guidelines being contemplated that will also have a committee, we are also looking at hiring new staff planners at this stage so as touch on by Gary, you do want and we would prefer to be at these meetings to help provide guidance and direction where needed. Wherever we can bundle meetings together and even come in perhaps during working day hours - whatever works best.

MARCIA PARSONS:

If we schedule a 6:00 p.m. meeting, does that give you time to take a break to go get dinner or see your kids or whatever for the meeting?

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

STAFF MIKE TULLER:

Most of us live a distance away where we cannot go home even if it was a 6:00 meeting, so we either bring dinner with us or run next door.

GARY WILLIS:

I would like to make a motion that we leave it just as it and meet on Tuesday night at 6:00 p.m.

CHAIR HEIDI SOWDER:

You do have to make a motion to change it because it was actually 6:30 p.m.

MOTION AND SECOND: Gary Willis made a motion to change the meeting time from 6:30 pm. to 6:00 p.m. on Tuesdays, one hour to our 7:00 p.m. regularly scheduled meetings. If someone is late, they are just late. **Seconded** by Heidi Sowder. **Vote:** 5-2, with Walt Rekuc and Todd Chernik abstaining.

CHAIR HEIDI SOWDER:

Any other business tonight?

SCOTT KILGORE:

I do not know if this is a question for the board or staff, but regarding the question of the number of cases and the cap, is that something we would need to change in our by-laws or is that something that the council would have to give us permission to do, because if we are going to say we are only going to give ourselves an hour, if we get hit with 10 cases and they are big cases, there is no way we are going to discuss all of them and we may have outstanding questions and we are going to come in here unprepared. I did my best tonight to try to do my homework on the cases that I felt strongly about, but that is not going to happen all the time if we cannot be prepared. How would we go about changing that? Any ideas? Change the by-laws?

STAFF MIKE TULLER:

I would assume that the by-laws would be the first step. Certainly we want to get the Director and concurrence from City Council. Most jurisdictions kind of stick in there and go through the process and maybe even expedite some of the individual applicant hearing items. Angela did come from a jurisdiction that did cap things, but the reality is that just backlogs those projects and we are trying to be customer service oriented here in the city and maybe we will have to start the meetings a little earlier if we see a higher progression of cases, but we would probably recommend that we move a little quicker through the items and try to get all those that have reasonably requested to be heard.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

SCOTT KILGORE:

Angela, what was the cap in your jurisdiction, do you remember?

STAFF ANGELA RAMBEAU:

I am not sure what is was for variances, I would have to check.

SANDY JONES:

This is kind of an open discussion point for the board. One of the things that feels like it is coming up is like the case we had tonight regarding the equestrian matter. It seems that like whenever there is a matter with AG-1 and uses that we feel are appropriate for harmony and what we want, and some of this may also be going on with some of the other committees, but there needs to be some type of evaluation on the AG-1 approved uses and clarification to those approved uses on what is acceptable and what is not acceptable regarding building sizes based on this type of use and this type of setback. I am not sure if these discussions and these questions are being addressed in some of the other activities that are going on with some of the other boards and some of the initiatives or is this something that from a board's standpoint we could write a letter or something to council requesting them to take a look at that.

SCOTT KILGORE:

Especially the equestrian issue.

SANDY JONES:

I mean we have horses on our logo.

CHAIR HEIDI SOWDER:

I agree and I know that during the comp planning process these will be looked at. Myself and Todd are part of that committee and right now we are finishing producing a survey that will be sent out to all of the residents in the city and once all the results are back from that and tabulated and everything, then we will actually start addressing the comp plan itself.

SANDY JONES:

And approved uses will be evaluated?

STAFF MIKE TULLER:

It is probably one of the biggest issues probably arguably facing the city. The fact that 85% of the city is AG-1 zoned and you can raise hogs and chickens and some almost industrial level obnoxious uses next to residential and there is not much that you can do about it, but we are looking through this process through amendments to our future land use to maybe look at a rural residential classification that allows the horses to go in and maybe classify certain animals for allowances and excludes others, similar to what was done in west Cobb

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

where they have a large very low density residential and rural residential land use category but very little agricultural, but you can still raise horses and stuff and that is becoming a growing dilemma because the reality has been touched on with land going for \$100,000 an acre, it is tough to be a farmer here in this city. So invariably a lot of this stuff is going into a residential character, but you are still going to have those older farms that maybe have paid all of their taxes or the note is paid and they are just sitting in there waiting for the right time and they can put some offending critters out there and noises and smells as we have seen evidenced. This is a big issue and it is going to be touched on through the public involvement process, through the survey instrument and certainly addressing the sewer issue too is going to be touched on. I know it is sensitive but if you follow the land use plan sewer is not evil.

WALT REKUC:

Milton can take people and show them examples in the community that are there that sometimes everybody just goes, *oh this is what we need 75 foot*. Well why 75? Why did we choose this? Well, that is what everybody else has. Unfortunately a lot of things do not happen over night. A lot of things take time and it is not going to be a quick fix, but at the same time I am not sure I feel like somebody should spend \$350 for every tree that may or may not live and make that a standing point that we have to do certain things that cost a lot. That is why I am saying it does take time, but here is what it looks like in 5 years, or 7 years, and I think so much I see is being done because that is what was done in Fulton or elsewhere. I am very upset that we are not really looking at some of these things.

STAFF MIKE TULLER:

We are going to start looking at things. The tree ordinance is also going through iteration. All of these things are coming up but as you touched on Walter, you have to elect the right people and you have to trust those people to make the right decision. The more you subscribe to a Fulton County policy, the more it diminishes the value of being a city.

WALT REKUC:

Discussion with staff about status of previous Daycare case and business license. Also when the subdivision ordinance was being a reason for us to look it up, it was not in our book. Also, we referenced Chapter 16 in one of our zoning cases and there is no Chapter 16. We probably need a new book that includes all of the changes that may have been made.

STAFF ANGELA RAMBEAU:

It is actually not in your book, it is a separate document, but I can forward that to you. There are a lot of other amendments occurring in the next couple of months, so you may want to hold off on that until all the updates are made. We are taking out a lot of overlays that do not apply to us and other stuff. It may be easier just to get you a whole new ordinance.

**Board of Zoning Appeals
Regular Meeting
October 16, 2007**

CHAIR HEIDI SOWDER:

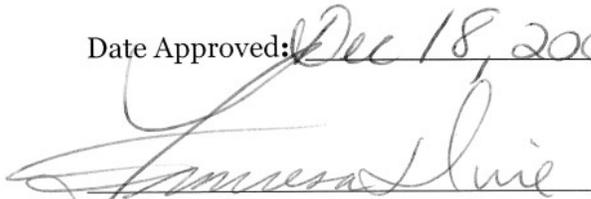
Any other new business? There was none.

ADJOURNMENT

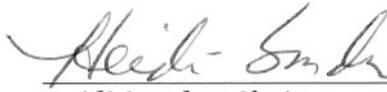
MOTION AND SECOND Gary Willis made a motion to adjourn the meeting. Todd Chernik **seconded** the motion to adjourn.

Vote: 7-0. Motion carried. Meeting adjourned at 9:50 PM.

Date Approved: Dec 18, 2007



Francesca Ivie
City Clerk's Office



Heidi Sowder, Chair
Board of Zoning Appeals