

# CITY OF LEBANON BOARD OF ZONING APPEALS MINUTES

DATE: December 2, 2015

TIME: 5:30 p.m.

Members present were: John Magness, Robb Kaufman, Tom Siehl and Pat Clements, City Manager. Also present was Samuel L. Hill, City Planner.

The first item of business was the consideration of the minutes from the Board of Zoning Appeals meeting of August 5, 2015. A motion was made by Mr. Siehl and seconded by Mr. Magness to approve as submitted.

The roll call was as follows: Mr. Kaufman, Abstain; Mr. Magness, Yes; Mr. Siehl, Yes.

## BZA-15-09-01 – 907 Sharon Drive – Appeal an Administrative Decision – Raising of Livestock

The next item of business was an application submitted by Ms. Doris Kennard, on behalf of Rex and Cheryl Johnson, for an appeal to an administrative decision of the Department of Planning and Development regarding the raising of livestock (keeping two pigmy goats) at 907 Sharon Drive. After staff summarized this agenda item, a motion was made by Mr. Siehl and seconded by Mr. Kaufman to open the public hearing. Mr. Rex Johnson spoke in favor of keeping the goats; however, indicated that he would be okay with which every way the board voted. He mentioned that the property in question is a duplex. Ms. Kennard, who lives in the back and has access to the fenced in rear yard, is a great tenant and he has not had any problems out of her or the goats. He mentioned his other tenant was the one who filed the complaint regarding fleas. Mr. Johnson mentioned that he had the property treated for fleas on three separate occasions after the complaint was filed. After the third and final treatment there was no evidence of fleas on the property. Next Ms. Kennard spoke in favor of keeping the goats. She indicated she has had the goats for two years. The goats are both male and are neutered. Mr. Kaufman asked what the goats eat. Ms. Kennard answered goat feed and hay. Mr. Magness asked are the goats trained to use the restroom in a specific area. Ms. Kennard indicated she has a litter box that they use. The goats are kept strictly as pets and they are not dirty animals. She cleans up after them every day and they are kept outside and live in the shed located in the fenced in rear yard. The board had no additional questions for Ms. Kennard and invited anyone else who wanted to speak in favor or in opposition of the case to come to the podium to address the board on record. Mrs. Ronda Grey of 915 Meadow Lane spoke in opposition of the appeal. Ms. Grey indicated she has lived at her current address since 1971 and believes the City has ordinances and regulations for a reason. Mrs. Grey indicated she doesn't know the owner or the renters of 907 Sharon Drive and has nothing against them; however, she has followed the rules and believes everyone else in the subdivision should be required to follow the rules as well. She believes if the appeal is approved for this case, this will open the door for other appeals which may include chicken, cows and other livestock within the neighborhood which she does not want to see. Mr. Kaufman asked if Ms. Grey had any evidence that would prove that Ms. Kennard was raising livestock as defined by the code. Mrs. Grey replied no and indicated she is speaking as a resident and had no knowledge of the goats beyond the public hearing notice that she received from the City. Mr. Kaufman indicated the purpose of his question was to obtain additional information that may suggest that Ms. Kennard is raising livestock as defined by the code. Mr. Kaufman asked staff how it was determined Ms. Kennard was raising livestock. Staff replied that the code definition clearly indicated raising of livestock is included in the definition of the zoning code. Mr. Kaufman then asked if there was a separate definition of livestock. Mr. Siehl said yes and read the definition. Mr. Kaufman indicated his interpretation of the definition in the code is used in the conjunctive not disjunctive meaning all four criteria listed in the definition have to be true in order for Ms. Kennard to be raising livestock. Mr. Magness indicated the intent of the code was not to allow livestock within a residential zone. Mr. Kaufman indicated the board does not right the code; however, they are responsible for enforcing as its written. Mr. Kaufman does not believe the intent was to allow livestock; however, how its written with the work "and" instead of "or" all the criteria has to be true. Mr. Magness asked staff what's an acceptable timeframe to allow the applicant to correct the violation. Staff

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indicated the case has been going on for over two months and that five business days was acceptable. In addition, it was indicated the board has the authority to place any time frame they thought was reasonable on the decision. Ms. Kennard indicated the goats may be euthanized because she could not find a place to send the goats in such a short period of time. Staff replied during a phone conversation roughly a month ago it was indicated there was a place lined up for the goats. Ms. Kennard addressed the board and indicated she did not indicate a place was lined up a month ago. A motion was made by Mr. Siehl and seconded by Mr. Magness to close the public hearing. The board deliberated on an acceptable time frame.

A motion was made by Mr. Siehl and seconded by Mr. Magness, to deny the administrative appeal to the administrative decision of the Department of Planning and Development regarding two pigmy goats being kept at 907 Sharon Drive, subject to the following conditions:

- (1) The pigmy goats shall be removed from the property within 30 days of the BZA's decision and shall not be permitted at anytime unless a text amendment to the code is approved permitting the raising of livestock within the R-1CC zone.

The roll was called as follows: Mr. Siehl, Yes; Mr. Magness, Yes; Mr. Kaufman, No.

## Other Business

- (1) Staff noted there were two applications submitted for the 6 January 2016 meeting:
  1. 105 N. Broadway (LCNB Redevelopment Project) – Variance for the proposed parking to encroach within 10 feet of an adjacent lot line.
  2. 214 E. Warren St – Rebuild a legal nonconforming structure damaged beyond 50% of its market value.

Mr. Siehl announced he would not be running for re-appointment to the board in the 2016 Year. Staff thanked Mr. Siehl for his continued volunteer service over the last 3½ years. Mr. Magness and Mr. Kaufman also thanked Mr. Siehl for his time serving on the board. Mr. Kaufman indicated there may be a conflict of interest with the LCNB case as his firm represents LCNB which would leave only one board member to vote. Mr. Clements indicated it would be difficult to find a replacement and have it approved by the City Council since the final meeting of the year was going to occur 8 December 2015. Mr. Siehl indicated he would not leave the City in a bind or hold up the progress of upcoming cases but reiterated that he plans on stepping down within the first few months of the 2016 year. Mr. Clements indicated he would inform the City Council and search for a replacement nominee to the board. Mr. Clements also thanked Mr. Siehl for his continued service on the board and for his willingness to be reappointed for the beginning of the year to allow review of upcoming cases.

There being no further business, Mr. Siehl made a motion to adjourn and was seconded by Mr. Kaufman.

Meeting adjourned.

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Chairman