

**MINUTES**

Meeting: Kent County Board of Zoning Appeals  
 Date: July 19, 2021  
 Time: 7:00 P.M.  
 Location: Virtual Meeting/County Commissioners Hearing Room, 400 High Street, Chestertown, Maryland

Agenda Item/Case	Sitting for the Board	Action Taken	Vote
<p><b>MINUTES: June 21, 2021</b></p>	<p>Dr. Albert Townshend, Chairman</p> <p>John Massey, Member</p> <p>David Hill, Alternate Member</p> <p>Mr. Christopher Drummond, Attorney for the Board</p> <p>Sandy Adams, Acting Clerk</p> <p>Michael Pelletier, Clerk</p>	<p>Mr. Massey made a motion to approve the minutes, and Mr. Hill seconded the motion; the motion passed with all in favor.</p>	<p>Unanimous Approval</p>
<p><b>The Board went into closed session at 7:05 pm to obtain legal advice from the Board's attorney. The Board adjourned the closed session and reconvened the Hearing at 7:32 p.m.</b></p>		<p>Dr. Townshend moved to go into a closed session Mr. Hill seconded the motion; the motion passed with all in favor.</p> <p>The Board was provided legal advice in preparation for the Thomas Voshell &amp; Chesmar Community Association De Novo Hearing.</p>	<p>Unanimous Approval</p> <p>No Vote</p>
<p><b>#21-25 Thomas Voshell &amp; Chesmar Community Association – Determination of Non-Conforming Use / Appeal of Administrative Decision of the Zoning Administrator.</b></p> <p>The applicants, Thomas Voshell and Chesmar Community Association, seek a determination of nonconforming use regarding the American Legion - Post 36 property under Article VIII, Section 1.7 or, alternatively, appeal of the administrative decision of the Zoning Administrator dated June 1, 2021, pursuant to Article X, Section 2.1 of the Kent County Land Use Ordinance. The property is located at 9155 American Legion Road, in the Fourth Election District, and is zoned Critical Area Residential (CAR).</p>		<p>Mr. Meehan moved to dismiss the appeal on behalf of the Respondent.</p> <p>Dr. Townsend moved that the motion to dismiss be denied. Mr. Masey and Mr. Hill agreed.</p> <p>Mr. Mowell moved to enter his appearance on behalf of the Interested Party, Minary's Dream Alliance. Mr. Mowell's entry of appearance was accepted upon the denial of the Applicant's motion to strike set forth below.</p> <p>Mr. Saunders moved to strike the entry of appearance.</p> <p>Dr. Townsend moved that the motion to strike the entry of appearance be denied as Minary's Dream Alliance has an equitable property interest. Mr. Masey and Mr. Hill agreed.</p>	<p>Unanimous Denial</p> <p>Unanimous Approval</p> <p>Unanimous Denial</p>

Agenda Item/Case	Sitting for the Board	Action Taken	Vote
<p><u>Applicant(s)/Representative(s):</u> Thomas Voshell &amp; Chesmar Community Association</p> <p>The Applicants were represented by C. Daniel Saunders, Esq. and Lance M. Young, Esq. with the McLeod Law Group LLC.</p> <p><u>Respondent(s)/Representative(s):</u> American Legion Post 36</p> <p>The Respondent was represented by Stephen Z. Meehan, Esq., with the Law Offices of Stephen Z. Meehan.</p> <p>Witnesses John Thomas Diller III and Ralph Morgan, Jr. were sworn in.</p> <p><u>Interested Parties/Representative(s)</u> Minary's Dream Alliance</p> <p>The Interested Party was represented by Mitch Mowell, Esq. with Wadkovsky &amp; Mowell</p> <p>Witness Paul Lorenzo Tue III was sworn in.</p> <p><u>Planning Staff:</u> Carla Gerber, Deputy Director</p> <p>No correspondence was read into the record.</p> <p><u>Exhibits Presented at the Hearing:</u> Respondent's Exhibits # 1 through 35</p>		<p>Mr. Meehan, on behalf of the Respondent, presented its case.</p> <p>Mr. Mowell, on behalf of the Interested Party, Minary's Dream Alliance, presented its case.</p>	<p>No Vote (hearing continued)</p>
<p><b>Adjourn</b></p>		<p>Mr. Massey made a motion to adjourn the meeting and to continue the hearing on July 27, 2021, at 7:00 p.m. and Mr. Hill seconded the motion; the motion passed with all in favor. The meeting was adjourned at 9:58 p.m.</p>	<p>Unanimous Approval</p>

Meeting: Kent County Board of Zoning Appeals  
 Date: July 27, 2021  
 Time: 7:00 P.M.  
 Location: Virtual Meeting/County Commissioners Hearing Room, 400 High Street, Chestertown, Maryland

Agenda Item/Case	Sitting for the Board	Action Taken	Vote
<p><b>#21-25 Thomas Voshell &amp; Chesmar Community Association – Determination of Non-Conforming Use / Appeal of Administrative Decision of the Zoning Administrator.</b></p> <p>The applicants, Thomas Voshell and Chesmar Community Association, seek a determination of nonconforming use regarding the American Legion - Post 36 property under Article VIII, Section 1.7 or, alternatively, appeal of the administrative decision of the Zoning Administrator dated June 1, 2021, pursuant to Article X, Section 2.1 of the Kent County Land Use Ordinance. The property is located at 9155 American Legion Road, in the Fourth Election District, and is zoned Critical Area Residential (CAR).</p> <p><u>Applicant(s)/Representative(s):</u>          Thomas Voshell &amp; Chesmar Community Association</p> <p>The Applicants were represented by C. Daniel Saunders, Esq. and Lance M. Young, Esq. with the McLeod Law Group LLC.</p> <p>Witness Thomas Voshell was sworn in.</p> <p><u>Respondent(s)/Representative(s):</u>          American Legion Post 36</p> <p>The Respondent was represented by Stephen Z. Meehan, Esq., with the Law Offices of Stephen Z. Meehan.</p>	<p>Dr. Albert Townshend, Chairman</p> <p>John Massey, Member</p> <p>David Hill, Alternate Member</p> <p>Mr. Christopher Drummond, Attorney for the Board</p> <p>Michael Pelletier, Clerk</p>	<p>Mr. Hill made a motion to exclude correspondence received from the honorable David Foster, Mayor of Chestertown, and Ms. Penelope McCray from the record as they did not attend the July 19, 2021, hearing. Mr. Massey seconded the motion; the motion passed with all in favor.</p> <p>Public comment was taken in favor of Respondent American Legion.</p> <p>Mr. Saunders and Mr. Young, on behalf of the Applicants, presented their case.</p> <p>Three members of the public, Mitch Mowell, Esq., Counsel for the Interested Party, Minary’s Dream Alliance, and Mr. Stephen Z. Meehan, Esq., Counsel for Respondent, cross-examined Applicants’ witness, Mr. Thomas Voshell.</p> <p>Public comments were taken in favor of the Applicants’ Thomas Voshell and the Chesmar Community Association.</p> <p>Counsel for the Respondent, Interested Party, and Applicants presented closing arguments.</p>	<p>Unanimous Approval</p> <p>No Vote (hearing continued)</p>

Agenda Item/Case	Sitting for the Board	Action Taken	Vote
<p><u>Interested Parties/Representative(s)</u> Minary's Dream Alliance</p> <p>The Interested Party was represented by Mitch Mowell, Esq. with Wadkovsky &amp; Mowell</p> <p><u>Public Comment</u></p> <p>The following public witnesses were sworn in and testified: Annie Richards Gretchen Mann Audra Cherbonnier Alana Fithian-Wilson Paula Reeder Stephanie LaMotte Carlene Wilson Robert Thomas Jennifer Fithian Emmitt Duke Kristen Forehand</p> <p><u>Planning Staff:</u> Carla Gerber, Deputy Director</p> <p>No correspondence was read into the record.</p> <p><u>Exhibits Presented at the Hearing:</u> Applicants' Exhibits #1 through 19.</p>			
<p><b>Adjourn</b></p>		<p>Mr. Massey made a motion to adjourn the meeting and to continue the fact-finding deliberation hearing on August 2, 2021, at 7:00 p.m. and Mr. Hill seconded the motion; the motion passed with all in favor. The meeting was adjourned at 10:46 p.m.</p>	<p>Unanimous Approval</p>

Meeting: Kent County Board of Zoning Appeals  
 Date: August 2, 2021  
 Time: 7:00 P.M.  
 Location: Virtual Meeting/County Commissioners Hearing Room, 400 High Street, Chestertown, Maryland

Agenda Item/Case	Sitting for the Board	Action Taken	Vote
<p><b>The Board went into closed session at 7:04 pm to obtain legal advice from the Board's attorney. The Board adjourned the closed session and reconvened the Hearing at 7:34 p.m.</b></p>	<p>Dr. Albert Townshend, Chairman</p> <p>John Massey, Member</p> <p>David Hill, Alternate Member</p> <p>Mr. Christopher Drummond, Attorney for the Board</p> <p>Michael Pelletier, Clerk</p>	<p>Mr. Massey moved to go into a closed session Mr. Hill seconded the motion; the motion passed with all in favor.</p> <p>The Board was provided legal advice in regard to the legalities for determining the findings of fact in the Thomas Voshell &amp; Chesmar Community Association De Novo Appeal's Hearing.</p>	<p>Unanimous Approval</p>
<p><b>#21-25 Thomas Voshell &amp; Chesmar Community Association – Determination of Non-Conforming Use / Appeal of Administrative Decision of the Zoning Administrator.</b></p> <p>The applicants, Thomas Voshell and Chesmar Community Association, seek a determination of nonconforming use regarding the American Legion - Post 36 property under Article VIII, Section 1.7 or, alternatively, appeal of the administrative decision of the Zoning Administrator dated June 1, 2021, pursuant to Article X, Section 2.1 of the Kent County Land Use Ordinance. The property is located at 9155 American Legion Road, in the Fourth Election District, and is zoned Critical Area Residential (CAR).</p> <p><u>Applicant(s)/Representative(s):</u>          Thomas Voshell &amp; Chesmar Community Association</p> <p>The Applicants were represented by C. Daniel Saunders, Esq. and Lance M. Young, Esq. with the McLeod Law Group LLC.</p>		<p>The following findings of fact were relied upon by the Board in denying the Applicants' application:</p> <ul style="list-style-type: none"> <li>• Art. VIII of the Land Use Article §1.7 uses in existence prior to November 18, 1969, are validated. The Board must examine what occurred between 1962 and 1969;</li> <li>• Art. VIII, of the Land Use Article §1.3 sets forth non-conforming uses in the Critical Area in 1988 and the 1 year abandonment provision;</li> <li>• A legal non-conforming use may intensify, but they cannot expand or extend;</li> <li>• The Board had to decide how the property was used in 1962 and 1969 and whether the use has evolved throughout the years; the character of that use and whether the use has been abandoned in the last year;</li> <li>• The Board found that the property was being used for education and motivational uses in 1962. Examples include dances, sports, food drives, and blood drives;</li> <li>• Mr. Hill found that the uses intensified over the years, but did not expand;</li> <li>• Dr. Townshend found that the fact that Minary's Dream had paid employees was not determinative as</li> </ul>	<p>Unanimous determination by the Board denying Applicants' application.</p>

<p><u>Respondent(s)/Representative(s):</u> American Legion Post 36</p> <p>The Respondent was represented by Stephen Z. Meehan, Esq., with the Law Offices of Stephen Z. Meehan.</p> <p><u>Interested Parties/Representative(s)</u> Minary's Dream Alliance</p> <p>The Interested Party was represented by Mitch Mowell, Esq. with Wadkovsky &amp; Mowell</p> <p><u>Planning Staff:</u> Carla Gerber, Deputy Director</p> <p>No correspondence was read into the record.</p>		<p>many charities operate with a paid staff;</p> <ul style="list-style-type: none"> <li>• The Board found that there has been no criticism or actions taken against the American Legion regarding its non-conforming use from 1962 until the property was being utilized by Minary's Dream Alliance;</li> <li>• Mr. Massey commented that the American Legion sent charity funds and operated with the community for years;</li> <li>• Mr. Hill noted that the Critical Area law includes sports under its playground definition;</li> <li>• Dr. Townshend found that the American Legion's records are well documented in regards to their activities. Those activities that began in 1962 included community events, sports events, and Boy/Girl States (which were educational and motivational);</li> <li>• Mr. Massey found that the American Legion's mission statement includes being active within the community and exhibiting a "mutual helpfulness";</li> <li>• Mr. Massey, relying on Respondent's Exhibit 34, found that the non-conforming uses were not abandoned in the last year due to the COVID epidemic;</li> <li>• Mr. Hill found that from 1962 to 1969 the American Legion was a very strong group and although their activity eventually slowed down, they still operated to this day. He further found that Minary's Dream Alliance use of the property intensified the use but is generally similar in purpose. Mr. Massey agreed;</li> <li>• The Board raised a concern that part of the anticipated scope of the Clubhouse would constitute an expansion if drug treatment and recovery services were to be provided insofar as these services have not been provided in the past. The Board concluded that a clear line of a use not permitted would be facilities that distribute controlled dangerous substances;</li> </ul>	
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Adjourn		Mr. Massey made a motion to adjourn the meeting and Mr. Hill seconded the motion; the motion passed with all in favor. The meeting was adjourned at 8:32 p.m.	Unanimous Approval

  
 Dr. Albert Townshend, Chairman

  
 Michael Pelletier, Clerk