

MINUTES  
ORANGE COUNTY BOARD OF ADJUSTMENT  
MAY 10, 2010

MEMBERS PRESENT: Jeffrey L. Schmitt, Chair  
Thomas Brown, Vice Chair  
David Blankfard, Alternate  
Dawn Brezina  
James Carter  
Mark Micol, Alternate

STAFF PRESENT: Michael Harvey, Zoning Enforcement Officer  
Debra Graham, Board Secretary

OTHERS PRESENT: John Roberts, County Attorney  
Sahana Ayer, Staff Attorney

1. CALL TO ORDER

Jeff Schmitt: Called the meeting to order. This is the regularly scheduled monthly meeting of the Orange County Board of Adjustment. We have a quorum.

2. CONSIDERATION OF ADDITIONS TO AGENDA

Jeff Schmitt: Are there any additions to the agenda? Hearing none, we'll proceed.

3. APPROVAL OF MINUTES

Jeff Schmitt: We have three items of business tonight, one of which is not listed on here but it is the documentation from the dog case, right Michael.

Michael Harvey: You're going to approve and certify the minutes. Right now that's all you need to do.

Jeff Schmitt: Besides that there's nothing else?

Michael Harvey: Not yet and I'll explain why in a minute.

Jeff Schmitt: So we have two sets of minutes, the first one we delayed from the March 8<sup>th</sup> meeting which are the minutes associated with the lighted ball field on church property and the lighting. I hope everybody has had an opportunity to read it. I will now entertain corrections, modifications, and so forth.

Tom Brown: Didn't we actually approve the lighting and the minutes we're going to be addressing here were the February 8<sup>th</sup> minutes which was where we continued the dog kennel. So this should not be the lighting it should be the...

Jeff Schmitt: We've got two sets of minutes.

Tom Brown: Right, but the first set is the one where we continued basically the dog kennel case from March 8<sup>th</sup>. Not the lighting minutes.

Jeff Schmitt: I thought we had.

Debra Graham: You need to approve both sets of minutes, February 8<sup>th</sup>, which includes discussion on the church property lighting and March 8<sup>th</sup> which includes the dog kennel case.

a. February 8, 2010  
(Delayed from March 8, 2010 meeting)

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5 Tom Brown: This is the February 8<sup>th</sup> minutes, page one, line 36, it says individuals sworn in. To my recollection on February  
6 8<sup>th</sup> we did not swear in anyone because the discussion was about whether there was sufficient time for the case to be heard.  
7 Then that was the discussion later with the attorneys where we decided when everyone was going to meet and we were going  
8 to have a long session. So, I don't believe we swore in anyone at that February 8<sup>th</sup> meeting.  
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10 Michael Harvey: I'll have to go back to my notes. I know people signed up. I think your recollection, however, is correct.  
11

12 Tom Brown: If we could... I don't guess it really matters.  
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14 Debra Graham: I'll check to make sure.  
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16 Tom Brown: Maybe you can say individuals signed in for swearing and then that's when it gets into the whole argument. Just  
17 say individuals who signed up to be sworn. The record should probably reflect that nobody was sworn because they moved it.  
18 I think it does that on the second page.  
19

20 Jeff Schmitt: Very observant Mr. Brown, thank you sir. Okay, on the bottom of page two, line 49, we are going to adjourn to  
21 this, 'to' needs to be struck. So we're sort of going page by page here I guess so as you have a comment on the page go  
22 ahead and speak up and make your observation. Page 4, page 5. Page 5, line 11. See this is the ballpark thing.  
23

24 Michael Harvey: This is the meeting where you approved the order and certified the record.  
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26 Jeff Schmitt: That's got it. All right, on line 11, it should read 'show that it is' and strike out 'not'. 'Show that it is in violation of  
27 County ordinance.' I think that's what we're saying there, correct? Michael?  
28

29 Michael Harvey: Yes  
30

31 Jeff Schmitt: Anything else on page 5? Page 6?  
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33 Tom Brown: Page 6, line number 33, delete the word 'at' at the end of the sentence there. "Where is that documented? And  
34 then line 37, that should be a question mark. That was not a statement. 'Staff agrees with her affidavit' and I said that in a  
35 questioning tone because I did not think that staff would agree with that. And that's all.  
36

37 Jeff Schmitt: Okay, page 7, on line 16. I'm going to change the wording here a little bit so beginning, it says 'changing this so  
38 that what' strike from 'what all to understand, Debra, and I'll read what I want to put in here. 'The comments of the Board  
39 reflect the understanding that Section number whatever, requires', so forth and so on. Is what I think we're saying. Then on  
40 line 25, after 'community,' comma, should be 'community building and fellowship' strike 'the extension of people getting  
41 together in a comradary fashion, that the church has the ability', insert 'to host and participate in this activity' strike all of that  
42 and after the 'building and fellowship', Debra, insert 'to host and participate in this activity.' So it should read, I said 'John, this  
43 doesn't revolve around the ability of the church, under the guise of the extension of community building and fellowship to host  
44 and participate in this activity. This in not in contention whatsoever.'  
45

46 Jeff Schmitt: Page eight, page nine.  
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48 Dawn Brezina: On page 8; I don't know what I said here but it certainly is convoluted. Line 22, if we could just 'offer during  
49 daylight hours it is different than' then just strike all that, 'than nighttime.' then period 'so he goes back to the field.....'  
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51 Dawn Brezina: On line 22, where it says "offered during daylight hours it is different 'than' a ball field at nighttime." Period.  
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53 Debra Graham: 'different than a ball field at nighttime.'  
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55 Dawn Brezina: Then the question to Michael is that it doesn't seem to be a problem.

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2 Debra Graham: You want to take that out?

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4 Dawn Brezina: Yes.

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6 Jeff Schmitt: Okay, page 9, line 40, 'gun shy because we had an appeal' strike 'against us because' and insert 'associated  
7 with' 'the sign' then strike 'of notification' and then in line 41 strike the word 'said' and insert 'saying that'. I'm trying to put this  
8 in here, I'm about to put this great grammar here. So, it's going to read 'I am kind of gun shy because we had an appeal  
9 associated with the sign notification on the case we just continued saying that there was not enough information on the  
10 notification for all the surrounding properties.' That's the way that will read. Ten, eleven.

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12 Mark Micol: Page ten, line 13, strike 'existing' for 'the existence' 'the mere existence of the lights...not altered'

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14 Jeff Schmitt: Page eleven.

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16 Tom Brown: Eleven, line 5 "In 2007, the accessory use 'was the' ball field." and strike 'or ball field was lights' which makes no  
17 sense.

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19 Jeff Schmitt: Any other changes and modifications? With the intended changes we have made here, do I hear a motion for  
20 approval of the minutes from February 8, 2010.

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22 **MOTION** made by Dawn Brezina to approve the minutes of February 8, 2010 with the noted corrections.

23 Mark Micol seconded.

24 **VOTE:** Unanimous

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26 **b. March 8, 2010**  
27 **Case Number A-8-09**  
28 **Canine College – Class II Kennel at 719 New Hope Church Road**  
29

30 Jeff Schmitt: Second set of minutes, the very extensive minutes beginning on page 15 from the Case A-08-09 Kennel on  
31 1719 New Hope Church Road. We'll go through page by page if someone has a comment. Line 48, page 15, 'and then the  
32 Board will' Debra, insert 'also' 'the Board will also have the opportunity to ask the witness questions' and strike 'at that in time  
33 also'. So then it reads 'to ask the witness questions before we go any further'. Line 52, at the end it says 'which we talk'  
34 'which we will talk about' insert will. Page 16, 17, 18, 19, 20, 21, 22, 23, 24, 25.

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36 Tom Brown: 25, line 39, 'My name is' 'Rob'.

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38 Jeff Schmitt: 26, 27, 28.

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40 David Blankfard: Page 28, line 28, 'I believe the landscaping' strike the word 'the' and replace it with 'that'.

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42 Jeff Schmitt: 29, 30, 31

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44 Tom Brown: 31, line 50 should be 'opinion' just strike the 's' on the end, and line 52 "Your statement that you think it will 'be'  
45 in harmony".

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47 Jeff Schmitt: 31, 32, 33

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49 Tom Brown: Page 33, line fourteen, 'one'

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51 Jeff Schmitt: 34, 35, 36, 37 line 18, put a period at the end of 'fence' and strike 'just for my edification'. Don't put a period  
52 there because there's a semi-colon later, 'both sides of this fence' I guess the semi-colon needs to come out and put a  
53 comma there. So it reads 'on both sides of the fence, you are not going back to the regulations' and then on 27, middle of the  
54 sentence there is the word 'that' 'one could construct 'that' strike 'that' and insert 'a' and then on line 28, 'of distance from'  
55 insert 'the' 'property line'

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2 Michael Harvey: Actually Mr. Chairman, I'm going to nitpick, it should be 'lines' plural on 28.

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4 Jeff Schmitt: 38, 39, 40, 41, 42

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6 Tom Brown: 42, line 53 'we just said an individual' strike the 'd' and then over at '400' it should be '400 feet.' not dbs.

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8 Michael Harvey: You should probably end up putting 'dbs' at the end 'get down to 40 dbs'

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10 Jeff Schmitt: 43

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12 Tom Brown: 43, line 34, "if they build it in accordance with 'your' recommendations"

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14 Jeff Schmitt: 44, 45, 46

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16 Debra Graham: On page 45, line 38 is that 'Use Path Standards' Michael? What does that mean?

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18 Michael Harvey: That was a discussion between Nick and Vic over a specific... I think it was use path.

19  
20 Debra Graham: Ok

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22 Michael Harvey: I'll have to clarify that with Mr. Herman. There was some discussion at this junction of the meeting about  
23 what methodology was standard that Vic utilized from a market assessment standpoint. Staff has to ask the questions.

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25 Jeff Schmitt: Page 45, line 38, highlighted.

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27 Michael Harvey: The Board can make a motion if they choose to approve these minutes stipulating that staff will correct lines  
28 38 and 40 on page 45 conferring with Mr. Knight and Mr. Herman to ensure that the proper terminology is utilized.

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30 Jeff Schmitt: Debra, if you could make that as a footnote.

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32 Debra Graham: I will.

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34 *Note: After conferring with Mr. Herman and Mr. Knight, the terminology was corrected to read: Uniform Standards*  
35 *of Professional Appraisal Practices more commonly referred to as USPAP.*

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37 Mark Micol: Line 52, question mark on the end of that sentence on page 45

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39 Jeff Schmitt: 46,

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41 Mark Micol: Same thing on line 17, I guess would be a question mark there.

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43 Jeff Schmitt: 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, line 30 at the end of the sentence  
44 'we can get them on a' it should be 'linear regression' not 'aggression'. Then on line 31 we have 'what do you look at?' is in  
45 there twice. 67, line 3 at the end of the sentence, 'you have got changes in the economy, changes in interest rates, changes  
46 in inflation,' delete the next 'changes' 'these home are not homogeneous'. 68, 69, 70, 71, 72, 73, 74, 75, 76, 76, 77, 78, 79,  
47 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92

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49 Tom Brown: 92, line 53, 'the Board of County Commissioners, in rendering' not 'rending'

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51 Jeff Schmitt: 93, 94

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53 Tom Brown: Line 42 on page 94, "requiring 'a' minimum open space"

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55 Jeff Schmitt: 95

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Tom Brown: Page 95, line 46, " No 'part' of any building"

Jeff Schmitt: 96, line 13, 'particular item is included' strike out 'by on recommendation' and insert 'with the conditions of approval' so it then reads 'That particular item is included with conditions of approval should this Board approve this SUP.' Line 28, "Staff has 'covered' Sections" and then at the end of the sentence strike out the remaining piece of the sentence 'and recommendations of yet the applicant' strike the rest of that out, Debra, and insert 'showing that the applicant has met the requirements.' So the sentence then reads 'Staff covered Sections 8.8.11.1 through 8.8.11.3 technical specifications showing that the applicant has met the requirements.' Page 97.

Tom Brown: Line 9, Jeff, I think you said 'the Board will now.'

Jeff Schmitt: That's correct, I have that also.

Jeff Schmitt: Insert 'page' in front of '142' on line 9 and on line 11, after the word 'these' put a comma in and strike the residual of that and insert 'and' 'As you well know, we have gone through each of these and I will ask for a motion for approval or disapproval.'

Tom Brown: Line 36, correct spelling of 'correspondence'.

Jeff Schmitt: 98, 99

Tom Brown: 99, line17, towards the end "'Actual' numbers, the only numbers provided on paper." Not 'actually' but 'actual'.

Jeff Schmitt: On line 8, where it says 'of the applicant', Debra, strike that and insert the word 'to' so it reads 'I think they have met their burden in regards to providing information' and strike 'to us' 'in providing information in relation to Article 8.2.1.'

Jeff Schmitt: 100, 101, and 102. Do I hear a motion for the approval of the minutes from case A.8.09 with the modifications made this evening and subject to the check that Mr. Harvey is going to make regarding the comment on page 45. Do I have a motion?

**MOTION** made by Tom Brown to approve the minutes of case A-8-09 with the corrections as stated by the Board. In addition also that staff confer with Mr. Knight and Mr. Herman to determine the correct wording on page 45, lines number 38 and 40. Seconded by David Blankfard.

**Vote:** Unanimous

Jeff Schmitt: Having no other items added to the agenda...

Michael Harvey: Mr. Chairman I have 3 very quick updates for the whole Board. There is no appeal of the lighting decision. So that interpretation stands. As some of the Board may have heard as they were walking in, there technically was an appeal filed on the kennel operation, it was submitted late. It was not submitted in accordance with provisions of the general statute in terms of it being filed within 30 days. We have submitted a motion to dismiss.

For the Board, Jeff Schmitt has served a long and illustrious tenure and his term has expired. This will be Mr. Schmitt's last meeting and as staff I want to take an opportunity to say thank you for your leadership and your work with this Board and for your ability to handle the cases we brought in the last five years. I appreciate everything you have done.

(Consensus by Board members with a round of applause)

Michael Harvey: There are no cases in June.

Tom Brown: So that means I'll have to convene the next meeting and then have an election for new Chair/Vice-Chair.

Michael Harvey: Yes

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2 Mark Micol: Who's our representative from the Planning, do we know that?

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4 Michael Harvey: The Planning Board has recommended Larry Wright be appointed by the County Commissioners to fill the  
5 Planning Board position. The County Commissioners will take action as they deem fit. There is some discussion of whether  
6 or not the Planning Board technically needs a representative on this Board any longer.

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8 Jeff Schmitt: Thanks, glad to work with all you folks. Best of luck to you.

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11 **4. ADJOURNMENT**

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13 With no further items, the meeting was adjourned at approximately 8:45 p.m.

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