

MINUTES
BREVARD BOARD OF ADJUSTMENT REGULAR MEETING
Tuesday, December 7, 2021 – 3:00 PM – Council Chambers

The Brevard Board of Adjustment (BOA) met for a regular meeting on Tuesday, December 7, 2021, at 3:00 PM in Council Chambers of City Hall.

Members Present: Judith A. Mathews, Chair
Tom Tartt, Vice Chair
Kevin Jones
Allen Delzell
Tad Fogel

Staff Present: Paul Ray, Planning Director
Aaron Bland, Assistant Planning Director
Katherine Buzby, Planner
Janice Pinson, Board Clerk
Brian Gulden, Board Attorney

Others: David Stokely, David's Auto
Terry McCracken, Property Owner
Mike Rogers, Property Owner
Al Horrigan, President, French Broad Place Homeowners Assn.
Marnie Martin, Property Owner French Broad Place

I. WELCOME

Chair J. Mathews called the meeting to order at 3:00 PM and welcomed those present.

II. INTRODUCTION OF BOARD MEMBERS

Board members, Board Attorney, and Staff introduced themselves.

III. CERTIFICATION OF QUORUM

Chair Mathews certified a quorum of the Board was present.

IV. APPROVAL OF AGENDA

Motion to amend the agenda to add election of officers and approval of 2022 meeting schedule by Mr. Jones, seconded by Mr. Fogel, unanimously carried.

Mr. Jones moved seconded by Mr. Fogel, to approve the agenda as amended, carried unanimously.

V. APPROVAL OF MINUTES

Mr. Jones moved, seconded by Dr. Delzell that the November 2, 2021, Minutes be approved as presented. Motion carried unanimously.

VI. NEW BUSINESS

a. The purpose of this meeting is to consider the revocation of Special Use Permit (SUP-12-104) issued to David Stokely for an automotive repair business doing business as “David’s Auto. The property is located at 69 W. French Broad Street within the corporate limits of the City of Brevard within a Downtown Mixed Use (DMX) zoning district, identified by PIN# 8586-52-4162-000.

Chair Mathews explained quasi-judicial procedures.

Attorney Gulden explained that the City and Mr. Stokely were parties with standing.

Mr. Gulden polled the board as to exparte communications or conflicts of interest.

Chair Mathews stated that she has an opinion that is not likely to change. That she briefly discussed the matter with Mr. Stokely, and that she has known him for years. That she has also known the property owner, Mike Rogers for many years, and that she resides across the street from David’s Auto. For all of these reason Chair Mathews recused herself from the hearing.

The meeting was turned over to Vice Chair, Tom Tartt to oversee.

Mr. Gulden polled the remaining board members as to exparte communications and conflicts of interest and there were none.

Mr. Gulden explained the requirements for parties with standing. He instructed the board to let each person speak as to why they believe they have standing, and to make a motion and vote on each one individually.

Al Horrigan, President of French Broad Property Owners Association stated that he signed the complaint letter, and that he represents all of the owners in French Broad Place.

Mr. Jones asked the nature of the property owners’ complaint, noise or visual effect.

Mr. Horrigan responded yes, both, and that he has had French Broad Property Owners come to him with their complaints. He further stated that Mr. Stokely is not in compliance with his special use permit, people are working late at night and early morning, that they see and hear it every day, and that he continues to park vehicles on the City’s sidewalks.

Mr. Jones made a motion that Mr. Horrigan have standing, second by Dr. Delzell, unanimously carried.

Marnie Martin, French Broad Place resident explained that her condominium has direct eyesight of Mr. Stokely's business; that they have been working on cars late at night, and into the early morning hours, making noise, hollering back and forth and reeving car engines.

Mr. Jones made a motion, second by Dr. Delzell that Ms. Martin have standing, unanimously carried.

David Stokely asked if he could speak. He requested that the Board grant a continuance to allow him to hire an attorney to represent him in the matter. He explained that he did not realize what was going on, and that he has been in business for 51 years, and has helped a lot of folks.

Attorney Gulden explained to the board that Mr. Stokely had made his request at the appropriate time before the hearing began.

He further explained that Mr. Rogers and Mr. McCracken, the property owners have standing in the matter as well.

Mr. Stokely explained that he is in the process of trying to remove the cars from the property.

Mr. Gulden stated that the matter could be continued until their next regular meeting, January 4, 2022 if the board deems it appropriate.

Mr. Horrigan addressed the request for the continuance. Stating that it was hard for him to believe that Mr. Stokely was not aware of what was going on as he stated.

Mr. Gulden explained to the board that the hearing had not begun, that no testimony had been presented, and that the board just needed to make a decision as to whether or not to grant the continuance requested by Mr. Stokely.

Terry McCracken, property owner asked to speak. He stated that he wanted to join David Stokely in the request for a continuance so that they can seek legal counsel.

Motion by K. Jones to grant continuance to January 4, 2022, second by A. Delzell, unanimously carried.

Attorney Gulden stated that the hearing was continued until January 4, 2022 at 3:00 PM.

b. Election of Officers –

Nomination by A. Delzell of Judy Mathews for Chair, second by T. Fogel. J. Mathews made her wishes clear that she did not want to continue to serve as Chair.

A. Delzell nominated K. Jones for Chair, second by T. Fogel, unanimously carried.

A. Delzell nominated J. Mathews for Vice Chair, second by T. Tartt, unanimously carried.

Meeting Schedule for 2022 – Motion to approve calendar by A. Delzell, second by T. Tartt, unanimously carried.

VII. UNFINISHED BUSINESS – None

VIII. REMARKS – None

IX. ADJOURN

Mr. Jones moved, seconded by A. Delzell that the meeting adjourn. Motion carried. Meeting adjourned at 3:55 PM.

Janice H. Pinson, Board Clerk

Judith A. Mathews, Chair