

## MINUTES

### **City of Milton Board of Zoning Appeals Regular Meeting February 17, 2009 7:00 PM**

#### **BOARD MEMBERS PRESENT**

Sandy Jones  
Todd Chernik  
Gary Willis  
Scott Kilgore  
Marcia Parsons  
Walt Rekuc  
John McRae

#### **CITY STAFF**

Angela Rambeau, Community Development  
Matt Zyjewski, Community Development  
Mark Law, City Arborist  
Francesca Ivie, City Clerk's Office

#### **AGENDA**

- 1) Call to order and pledge
- 2) Introduction of Board members
- 3) Approval of January meeting minutes
- 4) V08-031  
16355 Birmingham Highway  
Curtis Mills
- 5) V08-039  
16880 Quayside Drive  
Richard Wernick  
Kingsley Estates
- 6) V09-001  
3115 Manor Bridge Drive  
Eric & Deshawn Snow
- 7) V09-002  
1760 Redd Road  
Ed & Catherine Parsons
- 8) V09-003  
905 Post Oak Close  
Doug McNaughton
- 9) V09-004  
14250 Creek Club Drive  
Laurie Bruner  
Crooked Creek
- 10) Other business

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**CALL TO ORDER** Chair Sandy Jones called meeting to order.

**PLEDGE OF ALLEGIANCE**

**BOARD INTRODUCTIONS**

**APPROVAL OF MINUTES**

Sandy Jones made a motion to approve the January 2009 meeting minutes with the requested changes. The motion was seconded by Todd Chernik. There was no discussion. Vote: 7-0. The motion unanimously carried.

**STATEMENT OF THE BYLAWS OF THE BOARD OF ZONING APPEAL**

Read by the Chair Sandy Jones.

**Chair Sandy Jones**

- Requested Staff read the next agenda item, **V08-031**, 16355 Birmingham Highway, Milton, GA, Curtis Mills

**Staff Angela Rambeau**

- Staff requested that **V08-031** be deferred for thirty (30) days on behalf of the applicant
- Applicant in negotiations and is close to being able to have this matter withdrawn

**Motion and Second:** Sandy Jones moved to defer V08-031 for thirty (30) days. The motion was seconded by Todd Chernik. There was no discussion. Vote: 7-0. The motion unanimously carried to defer V08-031 for thirty (30) days.

**Chair Sandy Jones**

- Requested Staff read the next agenda item, **V08-039**, 16880 Quayside Drive, Richard Wernick (Kingsley Estates)

**Staff Community Development Intern Matt Zyjewski**

Presented V08-039 to the Board

- To allow a permanent banner
- Displayed on the windscreen of a subdivision tennis court
- To increase the maximum allowed square footage of a banner
- Article 33, Section 25.A.3
- **Staff Recommendation Conditions:** That applicant should obtain a sign permit if this is case is granted for the permanent banner

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**Chair Sandy Jones**

- Called for Board questions for Staff

**Walt Rekuc**

- Other locations in city where these banners are used?
- Triple Crown has one – internal towards tennis courts
- Milton High School signs under same code?

**Staff Angela Rambeau**

- Crooked Creek – more internal to subdivision so not visible from main right-of-way
- Probably other locations
- School handled under same code
- Any signs visible from a right-of-way fall under the code

**Todd Chernik**

- Would banner be in violation of code if it were internally facing?

**Staff Angela Rambeau**

- Not if the writing is not visible

**Applicant Richard Wernick, 3396 Carverton Lane, Alpharetta, GA**

- With Land Solutions
- Developer of Kingsley Estates and Triple Crown
- Jim Wernick will make the presentation

**Applicant Jim Wernick, 1910 Silverleaf Way, Alpharetta, GA**

- 90% of their developments have the windscreens and logos on the tennis courts
- Homes in Kingsley Estates will be upscale and in range of \$900,000-\$2 million
- 3 tennis courts, 2 pools, large clubhouse
- Have LDP from Fulton County
- Windscreen and logo promotes unity within the subdivision
- Planning to landscape between Birmingham Hwy. and tennis courts
- Feel there is no classification to address windscreens and logos for tennis courts
- This would be a permanent structure
- If classified as a banner then would be allowed to increase the size for visibility
- Do not believe it would be an eyesore or cause any detriment to the community

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**Chair Sandy Jones**

- Called for Board questions for the applicant

**Walt Rekuc**

- Discussion with applicant regarding location of lettering for their sign at Triple Crown
- Number of homes in Triple Crown?

**Applicant Jim Wernick**

- Approximately 90 homes in Triple Crown – 100 lots
- Kingsley Estates about same size – 96 lots

**Marcia Parsons**

- Number of windscreens planning to use?

**Applicant Jim Wernick**

- Windscreen all along the 10 ft. tall fence
- One that runs along Birmingham Hwy.

**Gary Willis**

- Number of monument signs Kingsley Estates currently has?

**Applicant Jim Wernick**

- Currently have one at the Freemanville Road entrance
- Plan to put one on Birmingham Hwy. similar to the Freemanville Road sign

**John McRae**

- Distance between existing windscreen and monument sign?
- Existing foliage and hardship?

**Applicant Jim Wernick**

- To center of the tennis courts around 150 feet
- There is no foliage

**Staff Angela Rambeau**

- No foliage at present time
- Applicant required to plant a landscape strip per an approved landscape plan
- This is only consideration that this can be looked at under

**Chair Sandy Jones**

- Called for additional questions for applicant
- There were none
- Called for public comment

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**PUBLIC COMMENT:**

**Leon Cole, 16700 Birmingham Highway, Milton, GA**

- Spoke in opposition
- Provided packet for the Board
- Requested the Board deny the variance request for a permanent banner in accordance with the Zoning Ordinance of the City of Milton

**Carol Lane, 14890 E. Bluff Road, Milton, GA**

- Spoke in opposition
- Provided photos of the sign for Board
- Requested the Board deny the variance request for a permanent banner in accordance with the Zoning Ordinance of the City of Milton

**Dan Riggs, 16455 Birmingham Highway, Milton, GA**

- Spoke in support
- Property is the closest to the tennis courts
- Likes quality of the sign
- Requested the Board consider granting the variance

**Kim Horne, 415 Wade Glen Court, Milton, GA**

- Spoke in opposition
- Noted no existing structure or foliage
- No hardship
- Requested the Board deny the variance request

**Chair Sandy Jones**

- Called for additional questions for Staff
- There were none
- Closed public hearing
- Called for a motion

**Motion and Second:** Gary Willis made a motion to deny V08-039 as applicant has not shown a hardship as there is no existing foliage, no structural blockage and they are also going to have another monument sign that will be erected when the temporary sign comes down. The motion was seconded by Sandy Jones.

**Discussion:**

**Walt Rekuc**

- Felt logo was a marketing tool
- Business owners need to be able to advertise
- Closest homeowner not voicing any objection
- Wanted Board to consider at least granting a temporary use of the banner

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**Gary Willis**

- Nothing blocking their current sign
- Did not see that the banner would do anything to help their business
- Wanted his motion to remain as stated

**John McRae**

- Though they should take a look at the definition of a “windscreen” for future variance requests of this nature

There was no further discussion. Vote: 6-1 for denial of the variance, with Walt Rekuc voting against denial. The motion carried and V08-039 was **denied**.

**Chair Sandy Jones**

- Requested Staff read the next agenda item, **V09-001**
- Property located at 3115 Manor Bridge Drive, Eric and Deshawn Snow

**Staff Community Development Intern Matt Zyjewski**

Presented V09-001 to the Board

- To allow a private recreational basketball court to encroach into a minimum side yard
- Article 19, Section 3.8
- DRB reviewed and stated applicant should provide mitigate for the approx. 800 sq. ft. of trees that were removed for the basketball court and to provide letters of approval from adjoining property owner
- Arborist stated recompense should be provided for the tree removal
- **Staff Recommendation Conditions:** (1) That applicant should obtain all necessary permits and (2) to provide recompense for the approx. 800 sq. ft. of the disturbed area for the recreation court in order to provide screening for the adjacent property owner with the plant types and location per approval of the city arborist if this is case is granted.

**Chair Sandy Jones**

- Called for questions for Staff

**John McRae**

- Discussed the recompense plan for this property with city arborist based on his analysis

**City Arborist Mark Law**

- Approximately 800 sq. ft. of vegetation within the building setback was cleared
- To re-vegetate said area with five (5) 2 inch caliper trees and ten (10) 6 ft.-8ft. trees.

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**Walt Rekuc**

- Board Discussion with Arborist regarding the 800 sq. ft. area

**Mark Law**

- Could have been addressed during the permit procedure if the plans had been brought in
- This was after the clearing had been done
- Court itself only encroaches on a small area
- Construction of the court through negligence or by design did have a lot of removal within the setback up near the property line

**Applicant Representative Attorney Enan Stillman, 1170 Peachtree Street NE, Atlanta, GA**

- Attorney for the applicants
- Presented case to the Board
- Stated Snows relied on their builders to comply with all applicable zoning ordinances and regulations
- Have been no complaints for adjoining neighbors
- Provided letter of approval from neighbor adjacent to Snows
- Will follow all Staff's recommendations to obtain variance
- Would like to have the opportunity to work with City Arborist
- Concerns about cost of recompense for 800 sq. ft.
- Requested Board grant variance request

**Todd Chernik**

- When was recreation court built?

**Attorney Enan Stillman**

- Court was built through builder and builder subcontractor in 2008

**Gary Willis**

- Questioned why builder did not get a permit to build basketball court.
- How did applicants find out it was in the setback?

**Attorney Enan Stillman**

- Did not know
- Felt applicants were taken advantage of
- No experience in construction, homebuilding or zoning ordinances
- Relied on builder's representations
- Will immediately apply for permit if variance gets granted

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**Staff Angela Rambeau**

- The City of Milton Code Compliance Officer visited the Snows and advised them of the violation

**John McRae**

- Any discussions with builder or contractor?
- Seeking mediation from developer?

**Attorney Enan Stillman**

- Was difficult making the contact with the builder, but will be setting up a meeting to attempt to get compensation for this for the Snows

**Chair Sandy Jones**

- Called for public comment
- There was none
- Closed public hearing

**Discussion with City Arborist regarding plan for recompense**

**City Arborist Mark Law**

- To re-vegetate said area with five (5) 2 inch caliper trees and ten (10) 6 ft.-8ft. trees.
- Roughly 20 shrubs in the area
- Cost would be approximately \$3,000

**Chair Sandy Jones**

- Called for a motion.

**Motion and Second:** Gary Willis made a motion to approve V09-001 to allow a private recreation court encroach into a minimum side yard with the following conditions: (1) to obtain all the necessary required building permits and (2) to screen the area with 2-4 trees. The motion was seconded by Walt Rekuc for discussion.

**Discussion**

**Gary Willis**

- Trees to be half inch each

**Sandy Jones**

- Clarification regarding recompense of the 2-4 trees
- Size, etc. should be deferred to City Arborist for determination as to what is appropriate

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**John McRae**

- Agreed should follow City Arborist's suggestions

**Scott Kilgore:**

- Agrees with City Arborist's recompense recommendations
- Feels 5% additional cost to applicant would be reasonable

**Walt Rekuc**

- Did not feel Board had ever asked for anything like this in any other case
- Mistake of builder, not homeowner
- Stated he thought the 800 sq. ft. assessment was way out of bounds and not reasonable

**Todd Chernik**

- Each case has its own merits and should not compare one case to another

**Chair Sandy Jones**

- Called for a vote on motion to approve V09-001 with stated conditions

Vote: 2-5, with Gary Willis and Walt Rekuc voting in favor of the motion and Marcia Parsons, Sandy Jones, Todd Chernik, John McRae and Scott Kilgore voting in opposition to the motion. The motion **failed**.

**Motion and Second:** Chair Sandy Jones made a motion to approve V09-001 to allow a private recreation court to encroach into a minimum side yard with the following conditions: (1) applicant shall obtain all necessary permits and (2) applicant shall provide recompense to provide screening for the adjacent property owner with plant types and location per approval of the city arborist.

Chair Sandy Jones incorporated the city arborist's recommendations of five over story and ten under story trees and restated the second recommended condition: to provide recompense for screening for approximately 800 square feet of vegetation with five (5) 2-inch caliber trees and ten (10) 6-8 ft. trees with a plan to be submitted for the City Arborist's approval. The motion was seconded by Todd Chernik.

**Discussion**

**Marcia Parsons**

- Question about stating cost of trees

**City Arborist Mark Law**

- Tree fund is for trees when they cannot be planted on the site
- Could sit down with applicant and discuss selection and type of trees as well as placement of the trees

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**Chair Sandy Jones**

- Rescinded her second recommendation to restate as follows: to provide recompense for approximately 800 sq. ft. of area disturbed for recreational court and plant types and location shall be per approval of the City Arborist

Seconded by Todd Chernik.

**Discussion**

**Walt Rekuc**

- Reiterated his position of questioning the 800 square feet

**Chair Sandy Jones**

- Called for a vote to approve the motion with stated conditions.

Vote: 4-3, with Sandy Jones, Todd Chernik, John McRae and Scott Kilgore voting to approve the motion and Walt Rekuc, Gary Willis and Marcia Parsons voting in opposition. The motion carried to **approve** the motion.

**Chair Sandy Jones**

- Requested Staff read the next agenda item, **V09-002**, 1760 Redd Road, Ed and Catherine Parsons

**Staff Community Development Intern Matt Zyjewski**

Presented V08-002 to the Board

- To allow a building housing animals to be located within 100 feet of adjacent property lines
- Article 5, Section 1.2.A.2
- To allow an accessory structure (a chicken house) to be located in the front yard
- Article 5, Section 1.3.1
- All adjoining land owners support the current location of the chicken house
- Only neighbor visually impacted by the chicken house endorses keeping the chicken house where it is currently located

**Walt Rekuc**

- Screening recommended?

**Staff Angela Rambeau**

- None
- No trees were cleared to build chicken house
- No vegetation was cleared
- There is some existing screening along perimeter of the property

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**Applicant Ed Parsons, 1760 Redd Road, Milton, GA**

- Presented case to Board
- Chicken house for pet chickens (about 12 chickens) they gather eggs from
- Placed chicken house within boundaries he had researched on city website
- Did not know because it housed animals (chicken) it was a different distance (100 ft.)
- Reviewed with Board from drawing board the location of chicken house on property also showing neighbors homes
- All adjoining property owners have no problem with location of the chicken house which is 8 ft. by 10 ft.
- Presented letters from neighbors voicing no objection
- Requesting variance as no better location to place the chicken house
- Consistent with the rural aspects of the City of Milton

**Discussion**

**Walt Rekuc**

- Were any trees or shrubs cleared in the construction of chicken house?

**Applicant Ed Parsons**

- No vegetation was cleared

**Chair Sandy Jones**

- Called for public comment
- There was none
- Closed public hearing

**Motion and Second:** Chair Sandy Jones made a motion to approve V09-002 for a variance to allow a building used for housing animals within 100 ft. from property lines and a second variance to allow a building used for housing animals to be located in the front yard. The motion was seconded by Todd Chernik.

**Discussion**

**Scott Kilgore**

- Stated this was clearly in harmony with the intent of the ordinance

**Chair Sandy Jones**

- Commended applicant for working with his neighbors
- Called for a vote

Vote: 7-0. The motion unanimously carried to **approve** V09-002.

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**Chair Sandy Jones**

Stated the next was agenda item, **V09-003**, 905 Post Oak Close, Milton, GA

**Chair Sandy Jones**

- *Recused herself from the case at 8:21 p.m.*
- Turned the meeting over to the Vice Chair Todd Chernik

**Todd Chernik**

Requested Staff read the next agenda item, **V09-003**, 905 Post Oak Close, Milton, GA

**Staff Community Development Intern Matt Zyjewski**

Presented V08-003 to the Board

- Variance request is to allow a proposed swimming pool to encroach into the 50 ft. stream buffer and the 25 ft. improvement setback
- City Code Chapter 14, Article 6, Section 5.a.i.ii
- Single family home on one acre
- Located in Oaks of White Columns Subdivision zoned AG-1

**Todd Chernik**

- Called for questions for Staff

**Walt Rekuc**

- Mitigation being asked for?

**Staff Angela Rambeau**

- 110 ft. infiltration trench
- Mitigation plan is required for approval of the variance
- Staff has conditioned the approval to the site plan dated 2/17/09 as shown

**Applicant Doug McNaughton, 905 Post Oak Close, Milton, GA**

- Want to build a swimming pool
- Have submitted 6 sets of plans
- Last submitted 2/17/09
- Met with Jimmy Sanders to make certain all requirements were met
- When house was purchase always intended to build a pool
- Did get letters from his two neighbors stating no objection that were provided to Board
- Also got approval from the subdivision

**Todd Chernik**

- Are the infiltration trench and the fence only areas encroaching into the 50 ft?
- Abiding by original site plan for vegetation purposes?

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**Applicant Doug McNaughton**

- Stated that was correct
- Stated was abiding by original site plan for vegetation purposes

**Todd Chernik**

- Called for public comment
- There was none
- Closed public hearing

**Marcia Parsons**

- Asked Staff if a landscape plan had been approved for the site

**Staff Angela Rambeau**

- Applicant has not submitted a permit so nothing had been approved
- Landscape plan had been submitted

**Motion and Second:** John McRae made a motion to approve V09-003, a request for a variance to allow for a propose swimming pool to encroach into the 50 ft. stream buffer and the 25 ft. improvement setback, with the following conditions: (1) the applicant shall obtain all necessary permits; (2) applicant shall construct the pool per the site plan dated 2/17/09; and (3) and the planting plan dated 08/12/08. The motion was seconded by Todd Chernik.

**Discussion**

**Marcia Parsons**

- Questioned staff on reviewing the planting plan and whether that would work with the current site plan or would that condition need to be modified?

**City Arborist Mark Law**

- Planting plan was 07/28/08
- May vary some
- No requirements so what applicant is doing should be sufficient to any disturbance within the 50 ft. buffer
- Will be looking for extensive landscaping
- Need to have some flexibility as not a requirement for this project

**Todd Chernik**

- Should rescind the condition for site plan dated 07/28/08

**City Arborist Mark Law**

- Think it would be fine to leave that condition out
- When final CO is done he would look at landscaping that would be sufficient
- Applicant really does not have to plant anything as no requirement to landscape that area

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**John McRae** stated he would like to strike condition #2 in his motion and restate as follows: The applicant shall construct a pool per the site plan dated 02/17/09. Seconded by Todd Chernik. There was no discussion. Vote: 6-0, with Sandy Jones being recused. The motion unanimously carried.

**Chair Sandy Jones**

- Rejoined the Board at 8:33 p.m.
- Called the next agenda item, **V09-004**, 14250 Creek Club Drive, Milton, GA

**Motion and Second:** Todd Chernik made a motion to take a short 5 minute recess. The motion was seconded by Scott Kilgore. There was no discussion. Vote: 7-0. The motion carried.

**Chair Sandy Jones**

- Meeting will reconvene at 8:40 p.m.

Meeting adjourned at 8:35 p.m. for a 5 minute recess

**Chair Sandy Jones**

- Reconvened meeting at 8:40 p.m.
- Asked Staff to present **V09-004**

**Staff Community Development Intern Matt Zyjewski**

Presented V09-004 to the Board

- To allow a reduction of the 20' landscape strip along the frontage of Creek Club Drive (Article 4, Section 23.1)
- To allow a reduction of the number of required parking spaces
- Article 18, Section 2.1
- To allow recreational courts, accessory structures, pool, deck, pool equipment, fencing and parking to encroach into the 100' setback (Article 19, Section 3.8.3b)
- Amenity area of Crooked Creek Subdivision
- Consists of 6.58 acres zoned CUP
- Site is located in the Highway 9 Overlay
- Amenity area includes an existing club house, basketball court, 9 tennis courts, playground structures, assessor buildings and associated parking
- Crooked Creek HOA is applying for a 3-part variance to update the facility
- Want to include 2 additional tennis courts, zero entry pool, 6 lane competition pool, 1,0715 sq. ft. tennis pavilion, a 5,420 sq. ft. club house, and a 1,240 sq. ft. cabana and associated parking area

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**Walt Rekuc**

- Had discussion with Staff regarding definition of “adjoining” setbacks
- Believes intent is to protect an adjoining property owner
- This is inside of a rec area and has trouble with Staff’s interpretation of “adjoining” in this instance
- In his opinion believes definition is pushed beyond the envelope

**Staff Angela Rambeau**

- Zoning Ordinance states both for pools and recreation courts that they have to be at least 100 feet from all adjoining property lines
- Whatever property line delineates that rec area
- This had been discussed with the Community Development Director
- Need to cover spillage from tennis courts and noise from pool.
- Want to cover any and all possibilities

**Scott Kilgore**

- Secondary variance can be brought before the Board if there is a question regarding interpretation by the Community Development Director
- Here to decide the variance before them tonight and not the interpretation

**Applicant Laurie Bruner, Crooked Creek HOA, Milton, GA**

- Deferred to Steve Smith and Michael Stevens to provide detail on variances

**Steve Smith, 380 Majestic Cove, Milton, GA**

- Serves on Crooked Creek Board
- Leading the way for the redevelopment of Crooked Creek amenity area
- The 3 variances are critical to the redevelopment of their amenity area
- Current amenity area is approximately 14 years old
- Current facilities are falling apart
- Gave Board history of the amenity area
- Hardship to their community in the current condition it is in
- Negative impact to the residents and the value of their homes
- Reviewed designs of the new amenity area with the Board
- 73% of the people that attended meeting regarding the projected and voted approved the project
- Closed on a construction loan in December of 2008 – 4 million dollar construction loan for project
- They have 3 obstacles: (1) 100 ft. setback, (2) parking area that is required, and (3) landscape variance that affects parking area
- Design Review Board had great comments about facilities and look of facilities

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**Michael Stevens, 570 Greenview Terrace, Milton, GA**

- All adjoining property owners they know of are in support of project
- Not aware of any opposition
- Now 640 homes which has tripled in size from when originally built
- Current amenity area is not sufficient for number of residents
- 10 ft. sidewalk is for the proposed Milton Trail
- Neighborhood is not opposed to the Milton Trail as an amenity for the City of Milton
- Crooked Creek is opposed to the trail cutting through the middle of their neighborhood
- Do not feel the trail running through their neighborhood would be safe
- Taking care to preserve all the trees on their site

**Walt Rekuc**

- How many homes were been added in the past 12 months?
- Current number of parking spaces in the recreation area?

**Michael Stevens**

- Maybe 4 homes built in the last 4 years
- 78 parking spaces
- Increasing from 78 to 99 spaces

**Steve Smith**

- Largest events about 4 times a year are swim teams
- Other peak times will be on Saturday mornings in summer during ultra and when the pool is operational
- That would necessitate the additional parking spaces being requested

**Board Discussion with Mr. Smith about traffic and parking needs**

**Walt Rekuc**

- Procedure in place for when somebody wants to rent the facility?
- Graduations and swimming events occurring at same time for an example

**Steve Smith**

- Property Manager monitors the use of the facilities to ensure not a problem for the community

**Walt Rekuc**

- Discussion with applicant about need for 2 exit lanes
- If had one exit lane could perhaps pick up 2 extra spaces
- Question about right turn lane coming in

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**Steve Smith**

- Recommendations of Staff

**Mark Brock, 702 Old Peachtree Road, Suwanee, GA**

- Had proposed in original concept plans some parking closer to entrance
- Problem was proximity to the driveway and people backing out

**Michael Stevens**

- Advised Board there had to be a drive-over curb because of the Fire Department requirement
- Had to remove 4 spaces for that reason
- Now have maximum 95 spaces from 99 spaces
- Could reduce some of the islands and trees
- Are adding a heavy buffer throughout the property

**Lengthy Discussion between Mr. Rekuc and Applicants regarding parking spaces referencing rendering**

**Todd Chernik**

- Not our purview to address a possible redesign
- Believe we should get back to clarifying questions and not redesigning

**Walt Rekuc**

- Question about right-of-way

**Steve Smith**

- Have executed a right-of-way agreement with City
- Goes before City Council and voted on tomorrow night

**Scott Kilgore**

- Was the 73% the percentage that attended the meeting on this project or total residents
- Trying to get a field of the people surrounding development

**Steve Smith**

- 73% of the people who cast votes were in favor of the amenity area
- Those in attendance and through proxy
- Super majority is 61%

**Michael Stevens**

- Had several months of meetings
- Committees formed for a year prior for this planning
- 31 hours of town hall meetings during planning process before voting

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- Community was well informed for a year plus
- A lot of opportunity to voice opposition
- Everyone is very excited about this project

**Scott Kilgore**

- Question about tennis court locations and perhaps allowance for more space for parking in that area

**Steve Smith**

- Tennis court is the most important facility to the community
- Do not anticipate have too much traffic at a given time
- Property Manager will enforce the events

**Todd Chernik**

- Hardship on each of the 3-part variances?

**Steve Smith**

- If required to adhere to the 100 ft. setback would not be able to redevelop the amenity area and would be a severe hardship to the community
- Parking is due to the limited amount of real estate they have to work with and that is the reason for the reduction for the uses that are planned
- Landscape variance is being requested is to pick up parking spaces in the 20 ft. setback
- Staff advised that we needed additional parking spaces per the code

**Marcia Parsons**

- Inquired about using some of the landscape island areas for parking
- Perhaps should consider a variance for the islands

**Steve Smith**

- Have some severe topo areas to consider
- might be able to pick up a few spaces with the landscape islands
- Most important variance is the 100 ft. setback

**Chair Sandy Jones**

- Called for public comment

**Public Comment:**

**Laurie Bruner, 320 Ressington Passage, Milton, GA**

- Spoke in support
- President of the Crooked Creek Homeowners' Association
- Speaking as a resident
- Critical to community

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**Walt Rekuc**

- More important? Landscaping in interior or parking?

**Laurie Bruner**

- Parking
- Safety issue
- Try to avoid people having to park on street

**Walt Rekuc**

- Would you consider revising variance to ask for a variance on landscape islands to get more parking?

**Steve Smith**

- Good idea
- Never brought up in any of the staff meetings or design meetings
- Think good idea and might get 4 or 5 spaces
- There are limitations on what can be done with the site due to size of site and the size of the community
- Design developed was for the intended use and number of homes it services
- Trying to do best we can with a challenging site

**John McRae**

- If 100 ft. setback variance was approved and parking set aside and a new alternate parking plan were presented, you could still move forward?

**Steve Smith**

- Yes, but the timeframe is the most important consideration
- Need to start demolishing the old as soon as get the LDP
- Cannot afford to extend the project for a long period of time

**Mark Brock**

- Have not run the one-way drive by the Fire Department, Public Works or Engineering
- Just drew it up today
- Would like their approval first

**Chair Sandy Jones**

- Called for additional public comment

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**Public Comment:**

**Rudy Mirran, 595 Greenview Terrace, Milton, GA**

- Spoke in support
- Resides in Crooked Creek
- Did not know would have to deal with new city ordinance
- Rules were enacted after Crooked Creek was enacted
- Crooked Creek Board has put in many hours as volunteers to get project going
- Approval received by the attendees at the many meetings for this project has been amazing
- Should state that by in large the entire Crooked Creek neighborhood is completely supportive of this project
- Primarily about making sure this community has the right amenities, safety, taking care of our children and the value of the homes

**John McRae**

- Stated the HOA Board was not hearing anything about approval of the Milton trail
- Only 3 variance requests are before the BZA tonight

**Public Comment:**

**Lisa Ashcom, 14310 Creek Club Drive, Milton, GA**

- Spoke in support
- Closest neighbor to facilities area
- Neighbors all want this
- Need support of Board to change the 100 ft. buffer
- Have no problem with the amenity project

**Colt Whittall, 210 Cheltenham Walk, Milton, GA**

- Spoke in support
- Resident of Crooked Creek and member of the HOA Board
- Vote was very high in favor of project
- Voted to basically tax themselves to complete the project
- Got loan in a difficult lending environment
- Neighborhood is committed to this project
- Want to get it done in time for swim season
- Swim practice starts in May
- Love concept of the Milton trail
- Not in favor of having the 10 ft. trail running past amenity area is something residents will be in favor of

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**Chair Sandy Jones**

- Called for additional public comment
- There was none

**Walt Rekuc**

- Question for Staff
- Question about 12H.3.5(f)(4) in zoning ordinance regarding parking
- Can the variance be amended to allow reduction in the landscape parking islands and allow more parking spaces to be developed?

**Staff Angela Rambeau**

- Cannot amend anything before the Board tonight as it has already been posted and advertised
- Crooked Creek is in the Highway 9 Overlay District and that is referring to commercial developments
- CUP is residential only
- 12H.3 is geared strictly toward commercial and pertains to NW Overlay
- Also question about screening of garbage cans

**Additional discussion with Mr. Rekuc and Staff about parking and right and left turn lanes requirements**

**Public Works Director Dan Drake**

- Based on their analysis of the 640 homes and the increase and use of the facility thought the left and right turn lane was warranted
- There are policies, but do not know if this came under one of those categories

**Staff Angela Rambeau**

- Stated any refuse area needs to be screened

**Scott Kilgore**

- Question for Staff or DOT
- Came up with a 30% reduction in parking
- Would that present a safety issue?
- Like to keep the landscape strip and lose the 17 spaces

**Staff Angela Rambeau**

- Safety and welcome of the community and public in visiting facility
- Has been an ongoing issue
- Police directing traffic
- Board can approve reduction to what they believe
- City would not object
- Can approve that and put in condition they have to move things around to gain some other spaces

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**John McRae**

- Asked if part 1 was denied and require the 20 ft. landscape strip and not mandate the 10 ft. sidewalk, would that be the end of the sidewalk issue
- Some other body to try to propose it again?

**Public Works Director Dan Drake**

- The Milton Trail is adopted by the City Council
- Talks about a 5 ft. section going down Creek Club Drive
- Talks about a 6 ft. sidewalk and a 4 ft. bike lane
- Those are approved by the Council and any development that comes in would be required to put in that element
- Crooked Creek has a 5 ft. sidewalk out there and already meeting the requirement of the Milton Trail

**Staff Angela Rambeau**

- 7 ft. sidewalk has not been shown on any plans yet

**Scott Kilgore**

- So not part of this discussion
- Either have a landscape strip or 17 parking spaces

**Staff Angela Rambeau**

- Staff tries to strict to the ordinance
- Feel the more parking they can provide the safer it would be for the residents
- Staff will abide with whatever the Board decides

**Walt Rekuc**

- Read requirements from Section 4.23.2, Parking Lot Landscaping
- There is some latitude that the Director has or his designee to look at and possibly reduce that requirement
- Asked Staff if any code against using diagonal parking versus straight parking

**Staff Angela Rambeau**

- Stated not that she was aware of
- May be a difference in the size and width of the drive isles
- Going by what was presented to Staff in their plans

**Walt Rekuc**

- Discussion with Staff regarding use and width of sidewalk

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**Chair Sandy Jones**

- Called for any other questions for Staff
- Called for a motion

**Motion and Second:** Todd Chernik made a motion on **V09-004**, to approve Part 3, allowing the encroachment into the 100 ft. setback for the recreational courts, accessory structures, fencing, pool and parking, make a recommendation to deny Part 1 to reduce the 20 ft. landscape strip to 8 ft. along the eastern property line and make a recommendation to defer Part 2, to reduce the number of parking spaces from 110 spaces to 99 spaces to allow the applicant to work with Staff on alternatives and to reflect public safety ingress and egress which we do not have on the current plan. The following conditions shall apply: The applicant shall obtain all required permits and as pertains to Part 3, the variance approval per the site plan submitted on 01/20/09. Sandy Jones seconded the motion for discussion.

**Discussion**

**Walt Rekuc**

- Suggested voting on the variance requests individually versus as a group
- Regarding Part 1, the majority of the Crooked Creek residents of the community have decided this is what they want
- Why should Board not give them what they want
- Time is critical issue for applicants
- Applicants do not time for postponement or delay

**Todd Chernik**

- Intent in motion in approving Part 3 as to allow applicants to move forward with the project
- Intention with deferring Part 2 was that there is opportunity for the Community Development Director and Public Safety to work with applicants in coming up with an alternative plan regarding parking (particularly the landscape islands) within the next 30 days
- Saw an alternative plan that would enable applicants to achieve maintaining all the parking spaces without compromising the buffer
- In his opinion, it is a self-imposed variance request for Part 1

**Scott Kilgore**

- Asked Todd Chernik if his intent of the deferral in motion was because the Board wants to hear the final parking plan?
- Could the Board approve it up to so many spaces but with condition that they work with Staff to try to maximize parking?

**Additional Board Discussion regarding parking spaces**

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**Public Works Director Dan Drake**

- Inquired of Board if possible to condition or have the approval of 95 spaces contingent upon approval of Public Works and the Community Development Director
- Applicant would take the plan as 95 spaces, go through the Fire Marshall, Public Works, Community Development and if all agree, then 95 spaces are met
- Also keeping the landscape strip

**Gary Willis**

- Need to do everything we can to accommodate these residents and make them happy
- Gone way above and beyond what they needed to do
- They have 70% approval of the homeowners
- As Board we should do anything we can for the residents of Crooked Creek

**Marcia Parsons**

- Concerned about parking spaces
- Crucial to the project
- People will park on the street if not given the parking spaces
- Ingress and egress more important to address the safety issues
- There is a good deal of landscaping already in their plan

**Walt Reuk**

- Regarding water quality, there is a retention requirement applicants will have to meet
- Also will have to meet the water quality standard for any impervious surface they put on the property
- They cannot do anything without addressing this issue with the City

**Todd Chernik** restated Part 2 of his motion according to the recommendation from Staff to approve Part 2 conditioned upon Public Works and Community Development Director approval of a site plan for a minimum 95 parking spaces. Seconded by Scott Kilgore.

**Discussion**

**John McRae**

- Believes what is on the table now is the most amenable solution
- Suits the needs of the residents
- They can break ground immediately

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**Todd Chernik** summarized his motion:

*Approval of Part 3, Denial of Part 1, Approval of Part 2 conditioned on the applicant providing a site plan with a minimum of 95 parking spaces to the satisfaction of Public Works and the Community Development Director and conditioned on the applicant obtaining all required permits. Approval of Part 3 is per the site plan submitted on 01/20/09.*

Vote: 7-0. The motion unanimously carried to **approve** V09-004

**Chair Sandy Jones**

- Called for any new or old business

**Staff Angela Rambeau**

- Issue of the Board amending the By-laws to include the new changes to Article 22 regarding consideration of the variances
- Need to make a motion to state that the Board is going to strike the old considerations and replace them with the new considerations as approved by the City Council on February 2, 2009.

**Motion and Second:** Sandy Jones made a motion to amend the Board of Zoning Appeals Bylaws for considerations for primary variances as approved by City Council in their February 2, 2009 meeting. The motion was seconded by Scott Kilgore.

**Discussion**

Gary Willis had not seen changes but advised Board if they were okay with changes to vote and he would be fine with it. He would just abstain from the vote.

Vote: 6-0-1, with Gary Willis abstaining as he did not see the changes. The motion carried.

**Chair Sandy Jones**

- Requested Staff try to provide the documentation they would be voting on at the meetings
- Asked Staff some procedural questions regarding presentation to City Council on issues

**Staff Angela Rambeau**

- Board can direct Staff to come up with text amendment addressing Board's concerns and guidelines, Board would vote on it and Staff will present to Council

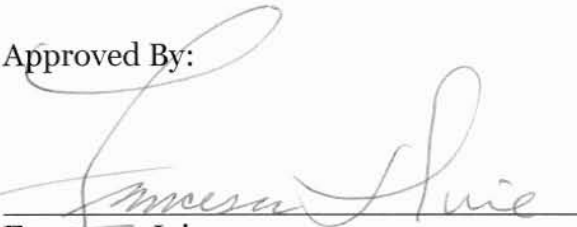
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**ADJOURNMENT**


**Motion and Second:** Sandy Jones made a motion to adjourn the Board of Zoning Appeals meeting. The motion was seconded by John McRae. There was no discussion. Vote: 7-0. Motion unanimously carried.

Meeting adjourned at 10:26 p.m.

Date Approved: 3/17/09

Approved By: 

Francesca Ivie  
City Clerk's Office

  
Sandy Jones, Chair  
Board of Zoning Appeals