

BA 13-033C AL-HUDA, INC. t/a DAR-US-SALAAM
December 9, 2015
Minutes

Board Members Present:

James Howard
Genevieve Walker-Lightfoot
John Lederer
Steven Hunt
James Walsh

Attorneys:

David Moore, Board Attorney
Sang Oh, Attorney for the Petitioner Al-Huda, Inc.
Joan M. Becker for the Opponents/Appellants

Board Secretary: Alison Mathieson

Board went back on the record to discuss the Motions in this case.

Mr. Walsh advised all counsel that Mr. Oh had retained an attorney in his office on an estate matter but felt he could still hear this matter. There were no objections.

Mr. Howard confirmed that Ms. Walker-Lightfoot had reviewed the materials after her departure at the last hearing.

Mr. Moore advised that the Motion before the Board was Mr. Walsh's Motion to Deny based on lack of standing. Mr. Moore also advised that depending on the decision on the lack of standing the remaining motions would be Motion to Dismiss the Appeal of RDW, Motion to Dismiss the Appeal of Al-Huda, Motion to Deny Conditional Use of Al-Huda

Deliberations:

Mr. Walsh expressed his thoughts that Motions for Lack of Standing are generally brought by a party and this case is unique in that a Board member brought that Motion. He feels that a problem could arise later if a precedent is set that any party without a direct interest in a property can bring a case.

Mr. Howard expressed his opinion that the Board does not want to deny standing to opponents in cases.

The Board continued to discuss whether or not it was appropriate and within their ability to grant a Motion for Lack of Standing in a conditional use matter.

Mr. Walsh argued that it was a bad precedent to allow a developer to bring a conditional use petition on a property the developer has no interest in.

Ms. Becker was permitted to refer the Board to the Maryland Land use Article, Annotated code 4.306(f)(2) appeal procedures. Ms. Becker indicated her opinion that the Board had broad jurisdiction to make a decision on Standing. Ms. Becker also referred to a case in the US District Court that looked at whether a party that has no property interest had the ability to file a conditional use.

Mr. Oh agreed that an appealing party does need to have standing but that the Board then has the ability to dismiss the petition, but not to deny the petition. Mr. Oh expressed his opinion that the matter be left on the inactive docket indefinitely.

Mr. Hunt expressed his view that Ms. Becker has made a request to dismiss and that the Board should not ignore Ms. Becker's request. Mr. Moore clarified the Motions before the Board.

Mr. Walsh expressed his opinion that dismissal of this appeal reinstates the Hearing Examiner's decision. Ms. Walker-Lightfoot suggested that if this is a de novo hearing then dismissing would not reinstate the Hearing Examiner's decision

Mr. Lederer feels this is a de novo appeal before the Board and therefore it gives the Board control over that matter. Mr. Moore agreed that this Board could dispose of this matter.

Mr. Lederer pointed out that the Board can deny both the Petition and the Conditional Use Application.

Mr. Walsh made a revised Motion to Dismiss the Petition of Al Huda, the Appeal of Al Huda and the Appeal of Ms. Becker's client based on lack of standing. Mr. Lederer seconded.

Mr. Lederer - grant

Mr. Walsh – grant

Mr. Hunt – grant

Ms. Walker Lightfoot – grant

Chairman Howard – grant

Motion was granted.