

**LUMPKIN COUNTY
BOARD OF COMMISSIONERS
Appeal Hearing Agenda
Lumpkin County Administration Building
99 Courthouse Hill
Dahlonega, Georgia**

**December 2, 2010
Immediately After Work Session**

I. CALL TO ORDER

Chairman Raber

II. APPEAL HEARING

- Appeal By: Jason M. Kenney

Appeal of the Lumpkin County Planning Commission's denial of a variance requesting a special land use approval to allow the keeping of additional livestock.

IV. ADJOURN

Chairman Raber

**LUMPKIN COUNTY BOARD OF COMMISSIONERS
APPEAL HEARING NOTES**

December 2, 2010

CALL TO ORDER

Chairman Raber called the appeal hearing to order at 12:13 p.m. in the Boardroom at the Lumpkin County Administrative Building. Present were John Raber, Bill Scott, Tim Bowden, Clarence Stowers and Clarence Grindle.

Motion: Commissioner Stowers made a motion to accept the agenda which was seconded by Bill Scott. All district commissioners approved the motion and the motion carried.

Appeal Hearing – Appeal By: Laura Blanco Kenney & Jason Kenney

This is an appeal of the Lumpkin County Planning Commission denial of a variance request concerning the number of animals allowed on their property which is designated Residential Growth under the Land Use Policy.

Attorney George Butler, representing Mr. and Mrs. Kenney, pointed out that this property is in an area designated Residential Growth but is immediately against an area designated Agricultural Preservation. Mr. Butler said he was a participant in developing the Land Use Code and knew that the animal standards in the Land Use Code were intended for horses. He said the governing authority had allowed “broad discretion” to the Planning Commission to make decisions regarding “good neighborly” standards and that, unlike traditional zoning, it was not intended that extreme hardship or extraordinary conditions must be met. He wants this referred back to the Planning Commission for reconsideration. Mr. Butler said the Planning Commission committed an unwitting misuse of discretion.

Planning Director Larry Reiter then said he agrees that Dan Walls made a comment regarding hardship. However, Mr. Reiter said he does not think this weighed on the decision of the Planning Commission. He said he thinks the decision was based on the number of stock acres stated in the Land Use Code for an area designated Residential Growth. Mr. Reiter said it is his opinion that the Planning Commission felt allowing a greater number of animals would be a detriment to a neighboring property.

Howard “Buzz” Comstock, Chairman of the Planning Commission, explained the objection of the neighboring property owners. He said pigs were purchased by the Kenneys after the McDuffies had bought the adjoining property.

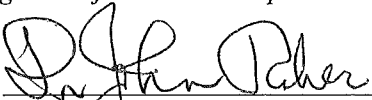
Discussion followed which included the members of the Board of Commissioners asking the Planning Commission Chairman, the Planning Director and the Kenney’s, through their attorney, a number of questions.

Motion: A motion was made by Commissioner Stowers to approve the Kenney appeal request provided the Kenneys moved the pig pen 100 feet away from the McDuffie property and kept a maximum of three animals. A second to the motion was provided by Bill Scott and approved by Bill Scott, Tim Bowden, Clarence Stowers and Clarence Grindle. Motion carried.

ADJOURN

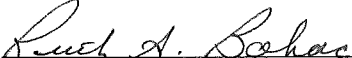
Motion: Commissioner Bowden moved to adjourn the hearing which was seconded by Clarence Stowers. All district commissioners approved the motion and the hearing was adjourned at 1:07 p.m.

12/16/2010
Date



John Raber, Chairman
Lumpkin County Board of Commissioners

Attest:



Ruth A. Bohac
Clerk, Lumpkin County