



**OAK RIDGE BOARD OF ADJUSTMENT MEETING  
SEPTEMBER 09, 2010 – 7:00 P.M.  
OAK RIDGE TOWN HALL**

**DRAFT MINUTES**

Members Sitting:

Wendell Ott, Chair  
Jim Kinneman, Vice Chair  
Alex Papp, ETJ Representative  
Nancy Stoudemire  
Beth Walker

Staff Present:

Bruce Oakley, Town Administrator  
Bill Bruce, Town Planner  
J. Michael Thomas, Town Attorney

Members Present & Not Sitting:

Jay Cumbus, alt

Members Absent:

Danny Yanusz, alt

**1. CALL TO ORDER**

The Board of Adjustment meeting of September 9, 2010 was called to order by Chairman Wendell Ott at 7:01 P.M.

**2. ROLL CALL**

Town Clerk, Rachel Hawley, calls the roll. All regular and alternate members of the board were present with the exception of alternate, Danny Yanusz.

**3. APPROVE AGENDA**

Chairman Ott proposes that Jim Kinneman, Nancy Stoudemire and Alex Papp who have all been appointed or re-appointed since the date of the last Board of Adjustment meeting be sworn in by the clerk.

The Town Clerk administers an Oath of Office to Kinneman, Stoudemire and Papp.

Chairman Ott proposes that a Chair and Vice Chair be nominated for a new term through December, 2010.

**Nancy Stoudemire moves** that Wendell Ott be nominated as Chairman of the Board. **Jim Kinneman** seconds the motion which then passes unanimous (5-0).

**Beth Walker moves** to nominate Jim Kinneman as Vice Chairman of the Board. **Alex Papp** seconds the motion which carries by a unanimous vote (5-0).

**Jim Kinneman moves** to approve the agenda of the September 9, 2010 meeting of the Board of Adjustment (copy attached). **Alex Papp** seconds the motion which passes unanimously (5-0).

4. **APPROVE MINUTES OF JUNE 11, 2009 MEETING**

**Beth Walker moves** to accept the minutes of the June 11, 2009 meeting of the Board of Adjustment as written. See copy attached. **Nancy Stoudemire** seconds the motion which then passes unanimously (5-0).

5. **PUBLIC HEARING:**

**Case No. 14-10:** James Pike is appealing an Interpretation of an Enforcement Officer's decision regarding window coverage for Signs that exceed 25% of the Surface Area as set out in Section 30-927, Table 6-1-1, of the Oak Ridge Development Ordinance. The property is owned by Phillip Cooke, Weyhill Commercial, and is located at 2209 Oak Ridge Road, Tax Parcel 0166228, Oak Ridge Township and zoned CU-SC.

-It is noted that neither the appellant nor a representative is present at the hearing.. Rachel Hawley, the Town Clerk who also serves as the BOA Clerk verified that she had informed the appellant that his appeal was scheduled for this time, date and place and that no objection had been expressed about the hearing schedule.

-Chairman Ott asks Town Attorney, Michael Thomas, for his thoughts about how the Board should to proceed.

-Michael Thomas responds that if this hearing were taking place in court of law, the Board would move to dismiss the case.

He has never seen this happen.

The Town is prepared to present the Town's interpretation of the ordinance and why it was correct in this case.

-Chairman Ott's initial inclination is to dismiss the appeal for failure to prosecute.

Town and Board of Adjustment have gone through substantial effort to be here.

-Chairman Ott polls the members of the Board for their opinions.

-Jim Kinneman: Did we let the appellant know the implications of not being present?

Thomas: The appellant is held to the standard to appear and argue their case. The appellant has the burden of proof in this case.

-Beth Walker asks if a letter is sent to inform Mr. Pike of the date of the hearing.

-Chairman Ott: Although there is no provision in our Board bylaws for dismissing appeals if the applicant is not in attendance, that is the standard process in every other judicial or administrative law forum with which he is familiar.

-Nancy Stoudemire: If we dismiss the case, do they have the option to re-appeal?

-Thomas: The next step, if you dismiss the appeal, will be to notify the owner that a civil penalty will be assessed after each day that the property remains in violation. They will not have a chance to come back before the Board and facing the civil penalty is the next step for them.

-Alex Papp feels that the Board should proceed with the issue and go about it the way the Board sees fit; everyone has gone through the effort to be here and if the party was concerned they would be here as well.

**MOTION:**

A **motion** for dismissal for failure to prosecute is made by **Jim Kinneman** and seconded by **Alex Papp**. The motion then carries by a unanimous vote of the Board (5-0).

Public hearing is closed.

**6. OTHER BUSINESS**

The terms of Beth Walker and Wendell Ott will expire in November.

Chairman Ott proposes that the Board meet in October to interview all applicants for the two vacancies that will exist as a result of the expiration of Walker and Ott's terms.

Ott shares that he may offer to be considered for reappointment but prefers not to be considered for a further term as chairman after this year. If there is a new chairman named while Ott is still on the board, he would be available to help that individual.

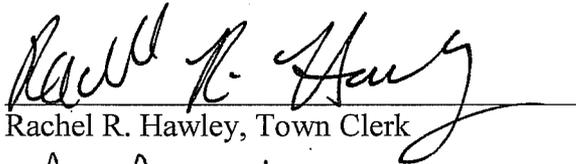
The Board will plan to meet on the 2<sup>nd</sup> Thursday in October.

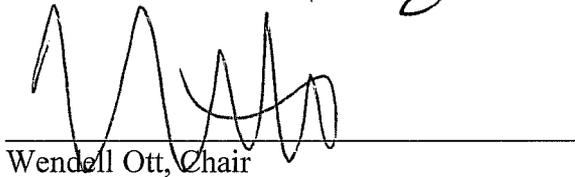
Ott asks the Town Clerk to forward any applications received for the Board of Adjustment vacancies (through additional advertisement) to the Board and invite any applicants to appear at the October meeting to be interviewed.

7. **ADJOURNMENT**

A **motion** to adjourn the September 9, 2010 meeting of the Board of Adjustment is made by **Alex Papp** at 7:20 P.M. The motion is seconded by **Jim Kinneman** and then passes with a unanimous vote (5-0).

Respectfully Submitted:

  
Rachel R. Hawley, Town Clerk

  
Wendell Ott, Chair