



**TOWN OF OAK RIDGE BOARD OF ADJUSTMENT MEETING  
JANUARY 10, 2013 - 7:00 P.M.  
OAK RIDGE TOWN HALL**

**MINUTES**

**Members Present**

Jim Kinneman, Chair  
Beth Walker, Vice Chair  
Nancy Stoudemire  
Jay Cumbus, Alternate (Sitting)

**Staff Present**

Sandra Smith, Town Clerk/HPC Staff

**Members Absent**

Wendell Ott  
Dede Cunningham, Alternate

**1. CALL MEETING TO ORDER**

Jim Kinneman called the meeting to order at 6:59 p.m.

**2. ROLL CALL**

Board members Beth Walker, Nancy Stoudemire, Jim Kinneman and alternate Jay Cumbus were present. Wendell Ott and alternate Dede Cunningham were absent.

**3. APPROVE AGENDA/MINUTES OF DECEMBER 13, 2012, MEETING**

Kinneman said the agenda would need to be amended because the minutes of the December meeting were not yet available.

**4. NEW BUSINESS**

**• Election of Chair and Vice Chair**

Kinneman opened the floor for nominations. **Beth Walker** made a **motion** to nominate Jim Kinneman for chair. There were no other nominations, and the floor was closed for nominations. **Jay Cumbus** seconded the motion, and it was approved unanimously (4-0).

Kinneman again opened the floor for nominations. **Jim Kinneman** made a **motion** to nominate Beth Walker for vice chair. There were no other nominations, and the floor was closed. **Jay Cumbus** seconded the motion, and it was approved unanimously (4-0).

**• Discussion of Board Procedures**

Kinneman said he had confirmed with the Town Attorney that the basic format for the February 14 meeting will be somewhat different because it is not like a public hearing, where anyone is allowed to give input. Kinneman said the attorneys for each side will be the "gatekeepers" for who is allowed to testify. Anyone who offers testimony will

need to be sworn in, including staff. The procedure will be that one side will present its case and the other side will be allowed to cross-examine, and vice versa. Kinneman said the Board will also have the opportunity to ask questions.

Regarding the possible conflict of interest, Kinneman said he will again make it known at the beginning of the meeting that he is a member of the Historic Preservation Commission. Kinneman said he understood that unless he has a financial interest or feels he cannot make an unbiased decision, he is required by law to sit on the Board. Unless other Board members perceive that there is a conflict of interest, Kinneman said he does not believe there is one. Walker said the attorney for CrossFit/Mustang Fitness had said at the December 13, 2012, meeting that he had no problem with Kinneman sitting on the Board.

Stoudemire asked whether the Board will be allowed to ask questions at any time or if they should wait until the attorney is finished with cross-examination. Kinneman said he felt the Board probably shouldn't interrupt the attorneys but would wait and ask questions before anyone testifying was allowed to step down. Board members could also ask questions during their discussion period, he said.

Walker asked how many Board members would be present at the February meeting. Sandra Smith said it had been determined that Alex Papp could continue to serve as the Board's ETJ representative for now because although he had requested that his property be voluntarily annexed, that would not officially take effect until June or July. Walker said if only four members of the Board of Adjustment are present, then all four must vote to approve a motion. Kinneman said he wanted to check on that because, even though a supermajority vote is required, he believed the way a supermajority is determined may have changed.

Regarding when the Board can ask questions, Kinneman again suggested waiting until after cross-examination is finished in order to keep the proceedings very structured and so the Board can maintain control. Because the Board could not discuss any specifics of the case, Kinneman said his only advice to Board members would be to read the ordinance. He also disclosed that he has stopped attending HPC meetings until the issues regarding the appellant have been resolved.

Regarding a question from Kinneman on what the Board would be given to review in advance, Smith said she thought that depended on the appellant; Smith said she understood attorneys from both sides were going to discuss the case to determine what records were needed and that the appellant would specify the reasons for the appeal. Kinneman said the Board might be ruling on two cases that night, and Smith said CrossFit had also filed an appeal regarding the enforcement officer's decision that the sign is out of compliance. Walker asked if the Board should specify what it wanted included in the record, and Kinneman said that would be difficult to do since it was still unknown specifically what the applicant was appealing.

- **Other**

**Beth Walker** made a **motion** that Alex Papp be recommended for reappointment as the ETJ representative to the Board of Adjustment. **Jay Cumbus** seconded the motion, and it was approved unanimously (4-0).

5. **ADJOURNMENT**

**Nancy Stoudemire** made a **motion** to adjourn the meeting at 7:15 p.m. **Beth Walker** seconded the motion, and it was passed unanimously (4-0).

Respectfully Submitted:



Sandra B. Smith, Town Clerk



Jim Kinneman, Chair