



**BOARD OF ZONING APPEALS
CITY OF FREDERICKSBURG, VIRGINIA
AGENDA
March 16, 2020
4:30 P.M.
COUNCIL CHAMBERS, CITY HALL**

Agenda

1. Call To Order
2. Determination Of A Quorum
3. Approval Of Agenda
4. Approval Of Minutes
 - 4.I. October 21, 2019 Regular Meeting Minutes

Documents:

[2019-10-21 BZA MINUTES - DRAFT.PDF](#)

- 4.II. September 16, 2019 Regular Meeting Minutes

Documents:

[2019-09-16 BZA MINUTES - DRAFT.PDF](#)

5. Public Comments
6. Presentation By Staff
 - 6.I. Creative Maker Form Based Districts
 - 6.II. Special Exceptions For Signs
7. Staff/Board Comments
8. Election Of Officers
9. Adjourn



Minutes
Board of Zoning Appeals
October 21, 2019
Council Chambers, City Hall
Fredericksburg, Virginia

MEMBERS PRESENT (Absent)

Frank Reyes, Chairman
Jay Jarrell III, Vice Chairman
Stephen Eubank
Dr. Roy Gratz
Matthew Muggeridge

STAFF

James Newman, Zoning Administrator
Cathy Eckles, Secretary

Chairman Reyes called the meeting to order at 4:30 p.m. and did a roll call.

PUBLIC NOTICE REQUIREMENTS

Chairman Reyes determined that a quorum was present, and asked if public notice requirements had been met. Mr. Newman stated that public notice requirements had been met.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Chairman Reyes asked if any Board member had engaged in *ex parte* communications on any item before the Board. No one indicated that they had participated in any *ex parte* communication.

DISCLOSURE OF CONFLICTS OF INTEREST

Chairman Reyes asked if any Board member had any conflicts of interest on any item before the Board. There were no disclosures.

APPROVAL OF AGENDA

Dr. Gratz motioned to approve the agenda as presented. Mr. Muggeridge seconded. The motion carried 5-0.

PUBLIC HEARING – New Business

- A. VAR2019-05, Mayo Carter**, requests a Variance from the Code § 72-42.3, for 424 Hanson Avenue (GPIN 7870-60-6163) in the R-4 Residential Zoning District.

Presentation by Staff

James Newman, Zoning Administrator, presented the staff report and a power point presentation (Attachment A). Mr. Newman noted staff has received seven letters in support of this variance from adjoining property owners and staff recommends approval.

Applicant was present but had no comments. Mr. Muggeridge asked about the adjacent properties 5' setbacks and how they encroached. Mr. Newman said after reviewing the aerial photos some of the properties (specifically 420 and 428 Hanson Avenue) were actually on the property line or perhaps a few feet in. Discussion ensued regarding the adjoining properties and maneuverability for utility work crews. Mr. Jarrell asked how the City determined this was a non-conforming use. Mr. Newman stated the applicant came in to obtain a permit for the garage and stated the slab was already there but the contractor had not obtained a permit. Further discussion ensued regarding the lack of a permit for the slab.

Public Comment

No public comments.

Board Comments & Questions

The Board of Zoning Appeals (BZA) discussed the application and questioned staff and the Applicants.

Mr. Muggeridge moved to approve the variance application as submitted. Mr. Jarrell noted he was troubled agreeing to grant this variance since the condition was caused by applicant. Mr. Muggeridge noted that applicant would have wanted this variance. Mr. Jarrell stated that if the variance had been requested prior to the slab being poured, no hardship would exist so would not grant the variance. Mr. Gratz seconded Mr. Muggeridge's motion. Chairman Reyes called for a vote. **Motion carried 4-1** (Jarrell, no).

B. VAR2019-06, David Dickerson, requests two Variances from the Code § 72-42.2.B.3 and § 72-42.3 for 104 St. Paul Street (GPIN 7778-58-9853) in the R-4 Residential Zoning District.

Presentation by Staff

James Newman, Zoning Administrator, presented the staff report and a power point presentation (Attachment B). Mr. Newman noted staff has received two letters in support of this variance from adjoining property owners and staff recommends approval.

Applicant was present but had no comments.

Public Comment

No public comments.

Board Comments & Questions

The Board of Zoning Appeals (BZA) discussed the application and questioned staff and the Applicants.

Mr. Eubanks clarified that the lot was non-conforming prior to this request for a variance. Mr. Newman said yes. Mr. Muggeridge asked what was behind the property. Mr. Newman said this was Telegraph Hill. Mr. Muggeridge asked if this was open space required for Telegraph Hill but Mr. Newman was unsure.

Discussion ensued regarding the rear yard being more than 30% occupied. Mr. Newman explained the rear setbacks and how that affects the percentages, and that occupied means

by a structure. Mr. Newman further discussed the current text amendment being considered by Council wherein in-ground pools will no longer be considered structures as they do not block light, air, or sightlines.

Mr. Jarrell questioned the normal 5' setback requirement for accessory structures. Mr. Newman said that if more than 30% of the rear yard is occupied than it changes to the 18' setback.

Mr. Jarrell questioned the purpose for the requirements. Mr. Newman stated this keeps property owners from building out the rear space to the maximum. Mr. Jarrell clarified that due to the shed preexisting the ordinance, it doesn't count; and with the new text amendments, in-ground pools will no longer count toward the percentages. Mr. Newman said yes to both.

Mr. Jarrell moved to approve the variance application as submitted. Mr. Muggeridge seconded.

Chairman Reyes called for a vote. **Motion carried 5-0.**

PUBLIC COMMENTS

No public present.

STAFF / BOARD COMMENTS

Mr. Newman noted that there will be no November or December meeting.

ADJOURNMENT

Chairman Reyes adjourned the meeting at 5:13 p.m.

Efrain Reyes, Chairman



Minutes
Board of Zoning Appeals
September 16, 2019
Council Chambers, City Hall
Fredericksburg, Virginia

MEMBERS PRESENT (Absent)

Frank Reyes, Chairman
Jay Jarrell III, Vice Chairman (Absent)
Stephen Eubank
Dr. Roy Gratz
Matthew Muggeridge
Tom O'Toole, Alternate

STAFF

James Newman, Zoning Administrator
Cathy Eckles, Secretary

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DISCLOSURE OF CONFLICTS OF INTEREST

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APPROVAL OF AGENDA

Mr. O'Toole motioned to approve the agenda as presented. Mr. Muggeridge seconded. The motion carried 5-0.

PUBLIC HEARING – New Business

VAR2019-04, Jennifer and Kirsten Talken-Spaulding, request a Variance from the Code § 72-31.3, for 3207 Normandy Avenue (GPIN 7779-49-5649) in the R-4 Residential Zoning District.

Presentation by Staff

James Newman, Zoning Administrator, presented the staff report and a power point presentation (Attachment A).

Public Comment

Applicant Jennifer Talken-Spaulding, 3207 Normandy Avenue (currently residing at 2102 Caroline Street) was present, as was her spouse, Kirsten Talken-Spaulding.

Jennifer stated she had some answers to questions they could not answer in July 2019. Applicants did not previously ask for side setbacks because they were seeking the standard R4 setbacks. Applicants researched whether a 25' front setback would work and discovered it was not enough. Applicant explained they are asking for an additional 3 feet to make the project work. Applicants discussed the support they have from the neighbors.

No public comments.

Board Comments & Questions

The Board of Zoning Appeals (BZA) discussed the application and questioned staff and the Applicants.

Mr. O'Toole asked Mr. Newman for clarification about the various front yard setbacks and the two properties that encroach into the allowable setback line. Mr. Newman explained this was prior to the variance came into effect.

Mr. O'Toole questioned Applicants about the automobile sketch on pg. 6 of 12 of the Variance Application showing the setbacks and what setbacks allow the car door to open. Applicants discussed how the variance is necessary to construct the garage and how denial of the variance will affect them financially if they have to modify the building.

Mr. Muggeridge asked staff if granting Applicants the 22' front setback would create a new number with which to calculate average setbacks. Mr. Newman said yes. Mr. Muggeridge clarified that there is no rule that a variance doesn't subsequently affect the calculation of the average. Mr. Newman agreed, if this setback is granted it will change the "average". Mr. Johnston noted that the purpose of the provision is to ensure that whatever is developed falls into neighborhood character. If this variance is approved, the neighborhood character does change.

Mr. Eubank asked for clarification that if the variance is granted, future calculations would be based on the 22' front setback and that this is what is meant by a neighborhood character change. Mr. Newman said yes.

Mr. Muggeridge asked for clarification about the utilities. Applicant stated that if the variance is not approved, possible changes to the design would cause the utilities to have to be moved resulting in \$100,000 worth of extra costs.

Dr. Gratz asked for clarification regarding the design drawings on pg. 5 of 12 in the variance application. Applicant explained the red line shows the BZA July 2019 approved design; the blue line shows how only a 25' front setback affects the design, and the green line shows what is currently being requested. Further discussion ensued regarding the placement of the walls and doors.

Dr. Gratz asked staff about administrative modifications and granting a 10% waiver without having to file for a zoning variance. Mr. Johnston stated that an administrative modification

is for established setbacks, not a requested zoning variance. The Board granted a specific 25' front setback variance and so it is not in the staff's purview to modify that.

Mr. O'Toole questioned what options Applicants have if the Board denies the variance. Mr. Newman stated Applicants could appeal to the Circuit Court.

Chairman Reyes called for a vote. Mr. O'Toole motioned that the front yard setback variance request be denied as recommended. Mr. Eubanks seconded. **Motion carried 3-1-1** (Gratz, no; Reyes-abstain).

Mr. O'Toole motioned that the side yard setback variance request be approved as recommended by staff. Mr. Eubanks seconded. **Motion carried 4-0-1** (Reyes-abstain).

PUBLIC COMMENTS

No public present.

APPROVAL OF MINUTES

- a. July 15, 2019 – Discussion ensued regarding a clerical error of Commissioners instead of Board members. Mr. O'Toole motioned to approve with the corrections noted, Dr. Gratz seconded. Unanimous approval 5-0.
- b. August 19, 2019 – Mr. O'Toole motioned to approve, Dr. Gratz seconded. Motion passed 4-0-1 (Reyes abstained).

STAFF / BOARD COMMENTS

None.

ADJOURNMENT

Chairman Reyes adjourned the meeting at 5:10 p.m.

Efrain Reyes, Chairman