



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

Telephone: (540) 667-1815  
FAX: (540) 722-3618  
TDD: (540) 722-0782  
Website: [www.winchesterva.gov](http://www.winchesterva.gov)

BOARD OF ZONING APPEALS  
AGENDA  
October 8, 2014 - 4:00 P.M.  
Council Chambers - Rouss City Hall

1. POINTS OF ORDER

- A. Roll Call
- B. Election of Officers
- B. Approval of Minutes August 13, 2014
- C. Reading of Correspondence

2. PUBLIC HEARINGS

**BZA-14-517** Request of DFC Architects, PC, on behalf of the property owner, Long Term Care Properties, LLC, for variances pertaining to an expanded use and structure in the 100 year floodplain pursuant to Sections 14.1-15-3C, D, E, and J and Section 14.1-15-6A of the Winchester Zoning Ordinance, for the property located at 380 Millwood Avenue (*Map Number 233-01- -3 - > <01*), zoned Medium Residential (MR) District with Floodplain (FP) District overlay. The applicant is requesting these variances to obtain relief from required flood proofing and building elevation requirements for a proposed building expansion.

**BZA-14-569** Request of Habitat For Humanity Of Winchester Frederick County, for variances pertaining to required lot area, front yard setback, side yard setback, rear yard setback, corner side yard setback, front porch encroachment, and amount of off-street parking requirement pursuant to Sections 5.1-3-1, 5.1-5-1, 5.1-6-1, 5.1-6-2.1, 5.1-8.1, 18-9-2.1, and 18-6-5.1 of the Winchester Zoning Ordinance, respectively, for the property located at 319-321 South Kent Street (*Map Number 193-01-R-19 - > <01*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay. The applicant is seeking relief of the aforementioned dimensional and parking requirements in order to construct two (2) single family homes.

3. NEW BUSINESS

4. OLD BUSINESS

5. ADJOURN

**BOARD OF ZONING APPEALS  
MINUTES**

The Winchester Board of Zoning Appeals held its regular meeting on Wednesday, August 13, 2014, at 4:00 p.m. in Council Chambers, Rouss City Hall, 15 N. Cameron Street, Winchester, Virginia.

**POINTS OF ORDER:**

**PRESENT:** Vice Chairman Pifer, Mr. Lewis, Mr. Crawford  
**ABSENT:** Mr. Ridgell  
**STAFF:** Aaron Grisdale, Nasser Rahimzadeh, Catherine Clayton  
**VISITORS:** Katia Hernandez

**ELECTION OF OFFICERS:**

Mr. Grisdale advised that, since there is not a full Board, he would call for nominations for Acting Chairman for this current meeting and formal nominations at a subsequent meeting. Mr. Crawford nominated Mr. Pifer for the Acting Chairman position. Mr. Lewis seconded the nomination. Voice vote was taken and the nomination stands, 2-0-1 Abstention (Pifer).

**CONSENT AGENDA:**

Approval of Minutes of July 9, 2014.

Acting Chairman Pifer called for corrections or additions to the minutes. Hearing none, he called for a motion. Mr. Lewis moved to approve as submitted. Mr. Crawford seconded the motion. Voice vote was taken and the motion passed 3-0.

**READING OF CORRESPONDENCE:**

None.

**PUBLIC HEARINGS:**

**BZA-14-452** Request of Titan Sign Corporation or a variance pertaining to signage in the B-2 (CE) District pursuant to Section 18-8-6.2 of the Winchester Zoning Ordinance, for the property located at 1041 Berryville Avenue (Map Number 196-08-E-3 - > <01), zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District overlay. The request involves alteration of an existing nonconforming freestanding sign.

Mr. Grisdale briefly reviewed the bylaws and rules of quorum requiring all three (3) members voting in accord either for or against the request. He then presented the staff report and advised that the applicant is seeking the variance to allow for the alteration of an existing freestanding sign at 1041 Berryville Avenue, currently occupied by Title-Max. This parcel has been the subject of Board of Zoning Appeals review previously in 1984 and 1994. In 1984, C & S Bank requested a variance to allow for a freestanding sign which was not permitted by ordinance to be installed. At the time, the Board approved for the freestanding sign and the sign was on the property until 1993 when it was torn down when the bank closed. In 1994, the BZA approved a variance request for the Marathon Bank for a variance to approve a freestanding sign. The Board was favorable to the applicant and granted an approval that was conditioned with the following: "It is approved for the proposed sign and for this use only." In 1994, in the zoning ordinance provisions, a

freestanding sign would not ordinarily have been permitted for this parcel due to its inclusion with the remainder of Eastgate Plaza as a commercial center. The commercial center at that time and to this day, has a nearly 300 square foot freestanding sign several hundred feet to the east. At the time of this variance consideration, the property was permitted to have one 150-foot freestanding sign to advertise the various businesses in the center. However, the BZA approved a variance to allow for a separate and additional sign for the bank. Over the years, the building has changed to different branches of banks, but it was not until this year that the property changed use and became a TitleMax. The TitleMax use is defined separately from a bank and is considered an alternative financial institution:

As a result of this change of use and the condition that was associated with the 1994 BZA approval, the sign may not be modified by-right. Within the applicant's brief letter, a statement is made that "the subject property is NOT included within the commercial center of Eastgate Plaza." However, this determination of whether or not the building is part of the commercial center is consistent with Zoning Administrator interpretations for the last 20 years. The current Zoning Ordinance provisions for commercial centers provide for several options. Staff does not believe that the hardship stated by the applicant has been articulated. Also, staff has received no letters of support or opposition to this application. Mr. Grisdale concluded by stating that he is available to answer any questions.

Acting Chairman Pifer called for questions from the Board.

Mr. Crawford asked who pays the taxes on the parcel that this sign sits on to which Mr. Grisdale responded that it is owned by EastGate Plaza, LC.

#### **Acting Chairman Pifer Opened the Public Hearing**

Katia Hernandez, representative for TitleMax, was sworn in by Mr. Crawford and briefly reiterated the request and said that the main concern right now is the difference of property owners. She said that they checked the records of the property and it does not show that it belongs to the shopping center.

Mr. Lewis reiterated that Ms. Hernandez said that based upon their search, Eastgate is not listed as the property owner to which Ms. Hernandez said that based upon the assessor's record online, it shows a Richard Butcher and that is who TitleMax is paying. The lease agreement does not say Eastgate Plaza. Mr. Lewis said that the City is saying that this property is part of the Eastgate Plaza property.

Mr. Grisdale responded saying that, looking at the application, Winchester East is identified as the property owner on the applicant's submittal. Mr. Lewis then asked if Mr. Butcher is the owner to which Mr. Grisdale responded that the Butcher family is the persons behind the entity, Winchester East. Mr. Lewis then reiterated to the applicant that she is stating they were unaware and that they believe this to be a separate property. Ms. Hernandez said that it shows on the records are a single person.

#### **Acting Chairman Pifer Closed the Public Hearing**

Acting Chairman Pifer called for questions or discussion from the Board.

Mr. Lewis said that he has no real concern about utilizing the existing sign with the same space but not increasing the size or moving it based upon what was already approved.

Mr. Crawford also stated that, looking at the definition of commercial center, characteristics A and B, these do appear to represent this property. However, C, D, and E do not apply. He then added that he has no real concern and that it would be a detriment to the business if they had to put their information on the sign that

is a block away. Also, as Mr. Lewis pointed out, the existing sign or one similar to it, with the exception of one (1) year, has been there for 30 years or so.

Acting Chairman Pifer said that he likes the existing sign design and that use of the original sign would make sense. Although it was approved in 1994, it does share some of the characteristics of a shopping center and that he would agree to using the original sign so long as the applicant does not expand it or change the submitted design. It should be limited only to this use and if another use comes in, they would have to submit for approval at that time.

Mr. Lewis then said that if the Board does approve the request, there could be an addition made referencing Alternative Financial Institutions and Motor Vehicle Title Lenders as part of the approval so that if it changes hands five or ten years from now, they would have to come back for approval from the Board. Mr. Grisdale responded that yes that is an option.

Acting Chairman Pifer called for additional discussion from the Board. Hearing none, he called for a motion.

Mr. Lewis moved to grant a variance to BZA-14-391 for a variance pertaining to signage in the B-2 (CE) district pursuant to Section 18-8-6.2 of the Winchester Zoning Ordinance, for the property located at 1041 Berryville Avenue (*Map Number 196-08-E-3*), zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District overlay, with the following conditions:

- a. The freestanding sign may remain and be altered provided that the modified sign does not project any closer to the road than the existing sign pole base.
- b. Only Alternative Financial Institutions definitions be added to this approval.
- c. Should the freestanding sign be removed, any future signage must fully conform to the current Zoning Ordinance provisions of that time.

*This variance is approved because:*

- a. *The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. *That such a hardship is not shared generally by other properties in the same zoning district and the same vicinity.*
- c. *That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of this variance.*

**NEW BUSINESS:**

None.

**OLD BUSINESS:**

None.

**ADJOURN:**

With no further business before the Board, the meeting adjourned at 4:23 p.m.



**APPLICATION FOR BOARD OF ZONING APPEALS**

Please print or type all information

(540) 678-0560  
Telephone

don@dfcarchitects.com  
E-mail address

DFC ARCHITECTS PC  
Applicant

29 E. BOSCANEN ST.  
Street Address

WINCHESTER VA 22601  
City State Zip

[Signature]  
OWNER'S SIGNATURE (use reverse to list additional owners)

540-667-7010  
Telephone

[E-mail address]  
E-mail address

LONG TERM CARE PROPERTIES, LLC  
Owner Name (as appears in Land Records)

380 MILLWOOD AVE.  
Street Address

WINCHESTER VA 22601  
City State Zip

REQUEST TYPE CODE - Please mark type of request and complete information  
KEY: V = Variance; AM = Administrative Modification; I = Interpretation

| REQUEST TYPE | ORDINANCE SECTION  | PERTAINING TO:   |
|--------------|--------------------|--|
| <u>V</u>     | <u>14.1-15-3j</u>  | <u>NO EXPANDED USE IN FLOODPLAIN</u>                                     |
| <u>V</u>     | <u>14.1-17-1,2</u> | <u>ADDITION FLOOR TO BE 1'-0" ABV.<br/>100 YR. FLOOD PLAIN ELEVATION</u> |

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section  
Public hearing sign deposit fee: \$50

PROPERTY LOCATION  
Current Street Address(es) 380 MILLWOOD AVE WINCHESTER VA Zoning MR

Tax Map Identification - (sections, blocks, lots) TM-233, LOT 3

**REQUIRED MATERIALS LIST**

- 1 copy of application (this form completed)
- 10 copies of letter explaining request and grounds for request
- 10 Copies of plans/or drawings, and surveys
- Fee (check made payable to the Treasurer, City of Winchester)
- List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee. - Paid ck # 030264
- Disclosure of Real Parties in Interest (list all equitable owners)
- Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign) - Paid ck # 030263

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE [Signature] DATE 8/20/14



CASE #: \_\_\_\_\_  
 FEE AM'T: \_\_\_\_\_  
 DATE PAID: \_\_\_\_\_

Rouss City Hall  
 15 North Cameron Street  
 Winchester, VA 22601  
 540-667-1815  
 TDD 540-722-0782

PG. 2 FOR ADDITIONAL VARIANCES  
**APPLICATION FOR BOARD OF ZONING APPEALS**

Please print or type all information

DPC ARCHITECTS PC  
Applicant

540-678-0560  
Telephone

29 E ROSAURUM ST. WINCHESTER VA  
Street Address

\_\_\_\_\_  
E-mail address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

**OWNER'S SIGNATURE** (use reverse to list additional owners)

LONG TERM CARE PROPERTIES, LLC  
Owner Name (as appears in Land Records)

540-667-7010  
Telephone

380 MILLWOOD AVE  
Street Address

WINCHESTER VA 22601  
City State Zip

**REQUEST TYPE CODE** - Please mark type of request and complete information  
**KEY:** V = Variance; AM = Administrative Modification; I = Interpretation

| REQUEST TYPE                        | ORDINANCE SECTION      | PERTAINING TO:                                    |
|-------------------------------------|------------------------|---|
| <input checked="" type="checkbox"/> | 14.1-15-3 c            | NEW CONSTRUCTION TO BE FLOOD RESISTANT            |
| <input checked="" type="checkbox"/> | 14.1-15-3 d            | NEW CONSTRUCTION TO BE FLOOD RESISTANT            |
| <input checked="" type="checkbox"/> | 14.1-15-3 e            | ELEC., HVAC, TO BE LOCATED ABOVE FLOOD PLAIN ELEV |
| <input checked="" type="checkbox"/> | <del>14.1-15-3 j</del> | <del>ALTERATION - NOT EXTENDED</del>              |

**APPLICATION FEE:** \$500 for 1st code section; \$100 for each additional code section  
**Public hearing sign deposit fee:** \$50

**PROPERTY LOCATION**  
 Current Street Address(es) 380 MILLWOOD AVE WINCHESTER VA Zoning MR  
 Tax Map Identification - (sections, blocks, lots) TM-233, LOT 3

**REQUIRED MATERIALS LIST**

- \_\_\_ 1 copy of application (this form completed)
- \_\_\_ 10 copies of letter explaining request and grounds for request
- \_\_\_ 10 Copies of plans/or drawings, and surveys
- \_\_\_ Fee (check made payable to the Treasurer, City of Winchester)
- \_\_\_ List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee.
- \_\_\_ Disclosure of Real Parties in Interest (list all equitable owners)
- \_\_\_ Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign)

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE [Signature] DATE 8/26/14

August 20, 2014

RE: BZA Variance from Flood Plain Regulations for:  
Evergreen Health & Rehab  
380 Millwood Ave.  
Winchester, Va 22601

Aaron Grisdale, Zoning Administrator  
City of Winchester  
Rouss City Hall  
15 North Cameron St.  
Winchester, VA. 22601

Dear Aaron,

I have enclosed an application for a variance request from the Flood Plain restrictions contained in Chapter 14.1-1 thru 14.1-19 of the City of Winchester's Zoning Ordinance related to expanding the use (adding on) to structures that pre-date the ordinance adoption, and raising the floor 1' above the flood plain contour map. As I have noted above, the current building pre-dates the ordinance, and therefore we have attached financial information establishing that the cumulative cost of all of the improvements will not exceed 50% of the facilities market value. I have also provided floor plans for the proposed addition illustrating the fact that we are not adding any additional beds to the lower floor (see the proposed demolition plan and the new plan). I have included a site plan for the addition also. The addition is designed to bring the existing beds up to current standards for patient care, patient gathering space and handicapped accessibility. This will greatly improve the quality of life for the residents living at the facility everyday. The Owner believes that the renovation and limited addition does meet the factors for granting a Variance contained in Chapter 14.1-18, and we will address these with the BZA.

As you may be aware this facility is the largest Nursing Home in the City of Winchester and provides more than 3 times as many licensed beds as any other facility in the City. The building has been operating at its current location since 1968. If you have any further questions or need any additional information please feel free to contact me.

Sincerely,



Donald F. Crigler  
President  
DFC Architects, PC

September 4, 2014



Mr. Michael Ranberger  
Administrator  
Evergreen Health & Rehab  
380 Millwood Avenue  
Winchester, Virginia 22601

Re: Allocation of Land & Building  
Evergreen Health & Rehabilitation Center  
380 Millwood Avenue  
Winchester, Frederick County, Virginia 22601

Dear Mr. Ranberger:

At your request, we have prepared an allocation of value between the referenced property's building and land. As you are aware, we have appraised the referenced facility in recent months for a bank. We inspected the property during this assignment and are familiar with the improvements. The previous appraisal performed included the total assets of the business, which includes business value. Per your request, we have provided an allocation of building value and land value. Details and information regarding the valuation data used, analysis, and composition of the appraisal report, which conforms to USPAP, are contained with the appraiser's work file. The allocation is as follows:

| <b>VALUE ALLOCATIONS- COST APPROACH</b> |             |
|---|-------------|
| Land Value                              | \$840,000   |
| Depreciated Improvements                | \$6,760,000 |

Respectfully submitted,

Heron Valuation Group, LLC

A handwritten signature in cursive script that reads "Frank L. Reed Jr." is written over a horizontal line.

Frank Reed, Jr.  
Virginia Certified General Appraiser  
License No. 4001 015506

**Pinnacle Services Winchester, Inc. dba Evergreen Health & Rehabilitation  
Long Term Care Properties, LLC  
Total Cost to Renovate W1, W2, W3, W4, and dining room**

|   |                                      |
|---|--------------------------------------|
| <b>Total Cost spent to renovate Wing 4 -secured unit</b>              | <b>\$ 537,572.25</b>                 |
| <b>Total Cost spent to renovate Wing 2 including bathroom/Therapy</b> | <b>305,545.27</b>                    |
| <b>Total Cost to Renovate Dining Room</b>                             | <b>97,151.16</b>                     |
| <b>Total Estimated Cost of W1 and W3</b>                              | <b>1,827,832.72</b>                  |
| <b>Total cost spent and estimated cost to renovate facility</b>       | <b><u><u>\$ 2,568,101.40</u></u></b> |

**Pinnacle Services Winchester, Inc. dba Evergreen Health & Rehabilitation  
Long Term Care Properties, LLC  
Total Cost to Renovate W1, W2, W3, W4, and dining room**

|  |                               |
|--|-------------------------------|
| Total Cost spent to renovate Wing 4 -secured unit              | \$ 645,479.54                 |
| Total Cost spent to renovate Wing 2 including bathroom/Therapy | 425,487.23                    |
| Total Cost to Renovate Dining Room                             | 122,000.86                    |
| Total Estimated Cost of W1 and W3                              | 1,901,782.40                  |
| Total cost spent and estimated cost to renovate facility       | <u><u>\$ 3,094,750.03</u></u> |



---

**EVERGREEN**  
**HEALTH & REHAB**

August 21, 2014

Aaron Grisdale, Zoning Administrator  
City of Winchester  
Rouss City Hall  
15 North Cameron St.  
Winchester, VA. 22601

Dear Mr. Grisdale:

An appraisal was recently completed on Evergreen Health & Rehab at 380 Millwood Avenue, Winchester, VA 22601 by Frank Reed of Heron Valuation Group, LLC. As a result of that appraisal, as of July 17, 2014 the value of the real property at this location was listed at \$10,220,000.00.

Should you need additional information we will be happy to provide it.

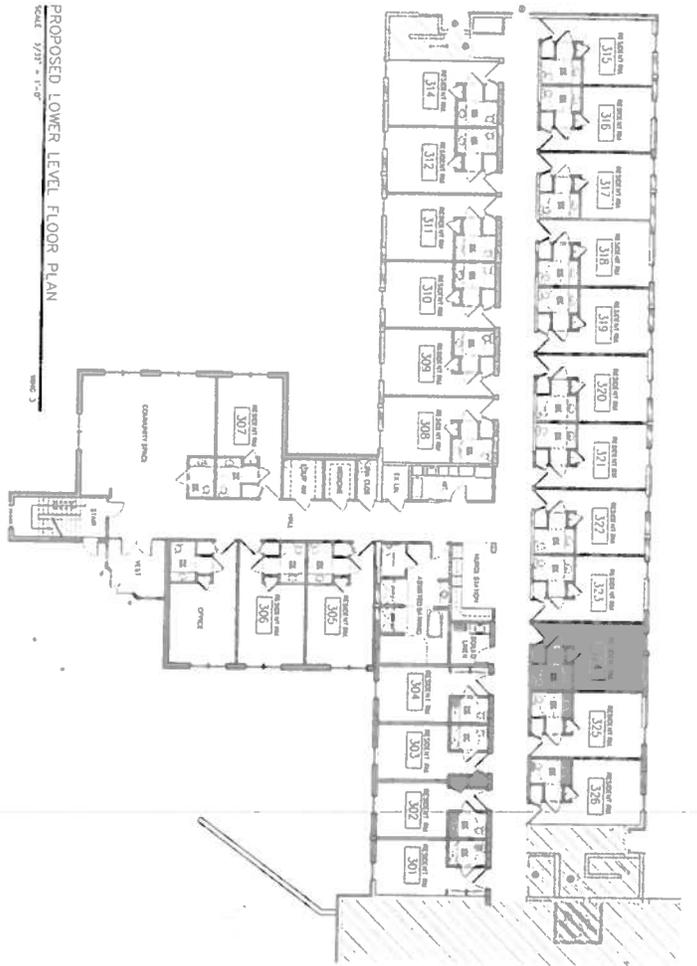
Thanking you in advance for your consideration in this matter, I am;

Sincerely,

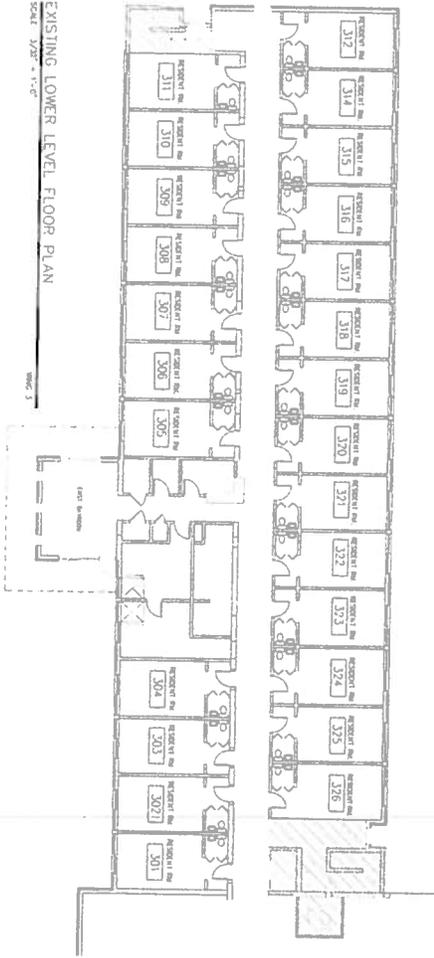
*Ramona J. Ringstaff*

Ramona J. Ringstaff  
Administrator





PROPOSED LOWER LEVEL FLOOR PLAN  
SCALE: 1/2" = 1'-0"



EXISTING LOWER LEVEL FLOOR PLAN  
SCALE: 1/2" = 1'-0"

**DFC Architects, PC**  
29 East Boscawen Street (540) 678-0560  
Winchester, VA 22601

PROJECT NUMBER:  
1302

DRAWN BY: TMM

CHECKED BY: DC

REVISIONS:

1)

2)

SHEET TITLE:  
PATIENT ROOM LAYOUT @ WING 3

PROJECT NAME:

EVERGREEN  
Renovation of Wing 1 & 3

CLIENT INFORMATION:  
**EVERGREEN HEALTH & REHABILITATION CENTER**  
ADDRESS:  
380 MILLWOOD AVENUE  
WINCHESTER, VA 22601

SHEET NO:  
08 20 2014

**BZA1**

**WINCHESTER BOARD OF ZONING APPEALS  
REPORT AND RECOMMENDATION**



**ISSUE/BACKGROUND**

Case: BZA-14-517

Applicant: DFC Architects PC

Location: 380 Millwood Avenue

Zoning: Medium Density (MR) District

Future Land Use: Nursing Home.

Legal Notice: The request for variance was advertised in the *Winchester Star* on September 24, 2014, and October 1, 2014. The property was required to be posted with a public hearing sign and notices were mailed to property owners within 300' of the subject property.

Applicant's Request: Request of DFC Architects, PC, on behalf of the property owner, Long Term Care Properties, LLC, for variances pertaining to an expanded use and structure in the 100-year floodplain pursuant to Sections 14.1-15-3C, D, E, and J and Section 14.1-15-6A of the Winchester Zoning Ordinance, for the property located at 380 Millwood Avenue (*Map Number 233-01- -3 - > <01*), zoned Medium Density Residential (MR) District with Floodplain (FP) District overlay. The applicant is requesting these variances to obtain relief from required flood proofing and building elevation requirements for a proposed building expansion.

**DISCUSSION/FINDINGS**

The request before the Board of Zoning Appeals is for five variances of floodplain requirements to allow for a building expansion of the existing nursing home facility.

The subject property is located on the east side of Millwood Avenue and is zoned Medium Density Residential (MR) district. The immediate properties on the west, north, east, and south sides are similarly zoned and properties to the northwest are zoned Central Business (B-1) and properties to the southwest are conditionally zoned B-1. (Exhibit A)

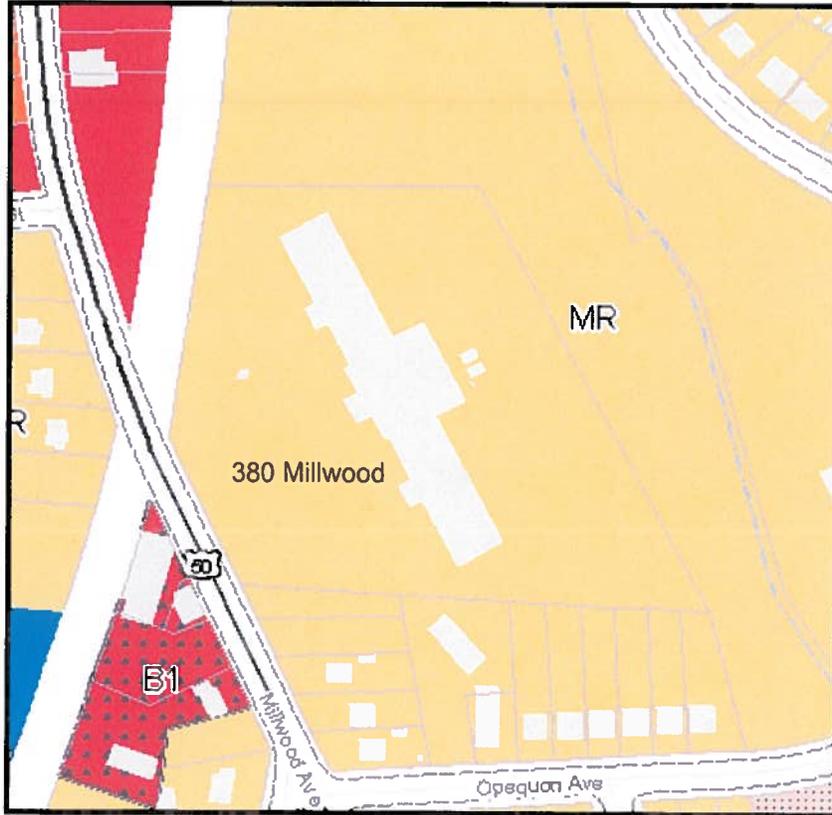


Exhibit A - Vicinity Zoning Map

The subject property is also encumbered by both the floodway and 100-year floodplain. The portion of the structure that will be expanded is located within the 100-year floodplain (Exhibit B):

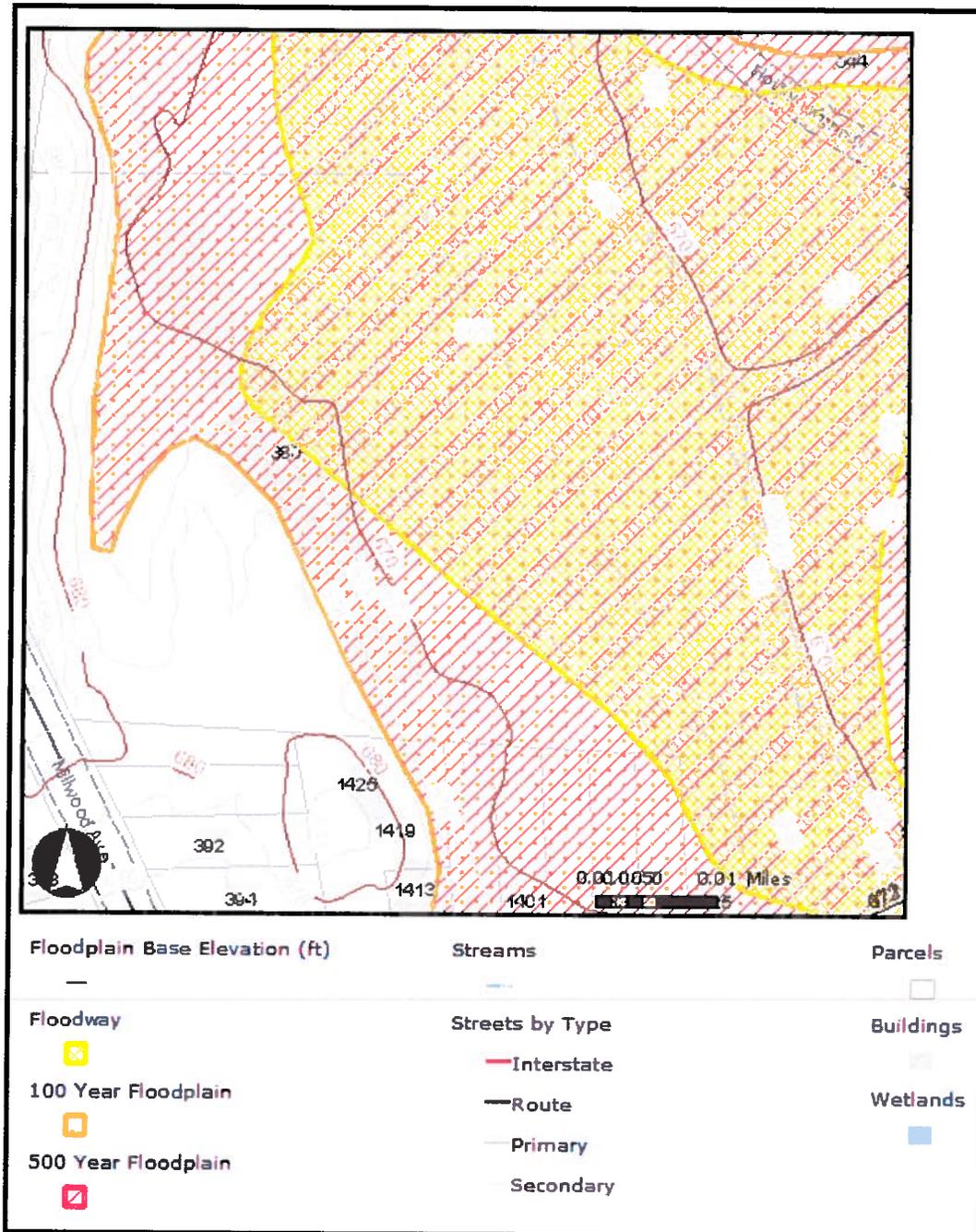


Exhibit B - Floodway and Floodplain

This parcel is currently improved with a nursing home and is considered a legal nonconforming use within the Medium Density Residential District. The property was constructed in 1968, which was then under the City of Winchester's 1960 Zoning Ordinance, which predates the current 1976 zoning ordinance. Since 1968, the property's zoning has changed a few times from the original R-5 (Multiple Family Dwelling District) to the current MR district.

Within the applicant's submitted information, it is shown that the property owner is preparing to undergo renovations of the existing structure as well as the proposed building addition. The project is designed to bring existing beds up to current standards for patient care, patient gathering space and handicapped accessibility. The applicant also states within his request letter that the improvements will not exceed 50% of the facility's market value, and therefore the project will not qualify as a substantial improvement. Furthermore, the applicant states that the operation will not be adding any additional beds to the lower floor.

#### **STAFF ANALYSIS & CONCLUSION**

According to Section 20-2 of the Ordinance, the Board of Zoning Appeals is required to make three (3) specific findings in order to approve a variance request. These findings are based on evidence, testimony, and demonstration of certain criteria, which are further defined in Section 20-2-3.1 of the Ordinance.

Section 20-2-3.1: When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the Ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or

convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the Ordinance.

1. That the strict application of this Ordinance would produce a clearly demonstrable hardship.
2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variances.

Additionally, within Article 14.1 – Floodplain Regulations, there are specific factors that the Board of Zoning Appeals must consider for a floodplain variance request:

**14.1-18 VARIANCES: FACTORS TO BE CONSIDERED**

In passing upon applications for Variances, the Board of Zoning Appeals (“the Board”) shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation. No variance shall be granted within the Special Flood Plain District for any proposed development that would cause an increase of more than one foot in the one hundred (100) year flood elevation.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

- L. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

In reference to the above three standard variance considerations and the additional evaluation factors from Section 14.1-18 of the Zoning Ordinance, staff does not believe that there is an argument for a demonstrable hardship in this instance. While the applicant states that there will be no net increase in the number of beds on the bottom floor, there will be an expansion of residential living space into the 100-year floodplain, without meeting the full flood-proofing requirements. A variance should be approved only when the "strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property." An argument can be made that the owner is presently enjoying reasonable use of the property.

The City of Winchester participates in the National Flood Insurance Program, and the purpose of the floodplain ordinance is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base. It is important for the City to ensure that we are following the established rules and provisions of our ordinance to ensure that the City will be able to continue to participate in the NFIP, which allows for City residents to obtain flood insurance at more manageable rates.

**Comments from City Engineer/Floodplain Administrator:**

I have reviewed the request of DFC Architects on behalf of Evergreen Health & Rehab to be granted variances for five sections of the Zoning Ordinance, all pertaining to improvements that are required when constructing a new building or an addition in the City's flood zone. Those sections are as follows:

- 14.1-15-3C – New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 14.1-15-3D – New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- 14.1-15-3E – Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- 14.1-15-3J – Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
- 14.1-15-6A - New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than 1 foot above the base flood elevation.

The following summarizes my comments on this request:

Ordinance sections 14.1-15-3C, D and E all pertain to the materials and equipment used to construct the structure and the need for those materials and equipment to be resistant to flood damage. These standards apply to any development in a flood zone and therefore, are not specific to this property. Furthermore, use of materials and equipment that are not flood resistant put the existing and new structures at higher risk for flood damage, which directly conflict with the ordinance's purpose of preventing additional threats to public health, safety and welfare.

Ordinance section 14.1-15-3J speaks to the extension of a non-conforming structure. The definition for "Development" cited in Section 14.1-7-4 of the Zoning Ordinance is "any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment and materials." Since the project will entail both excavation of land in the flood zone and a building addition, it is considered development and must meet the standards set forth in the ordinance.

Ordinance section 14.1-15-6A speaks to the need for residential projects to be constructed with the lowest floor raised at least 1 foot above the base flood elevation. The base flood elevation (BFE) at this location is 674.8 and the location of the new addition places the bottom floor around 671. In the event of the 1% annual chance flood, there could be almost 4 feet of water on the bottom floor of the building. In this case, though the zoning or use of the facility is not specifically residential, the applicant has stated that the space in the new addition will be patient rooms and that patients will be living there. Building residential space with a bottom floor significantly below the BFE creates a distinct threat to public safety.

While we appreciate and acknowledge the services that Evergreen provides to the community, our flood protection ordinance is intended to help protect the health, safety, welfare and property of our local citizens. Any building that is permitted below the BFE faces increased risk of damage from floods, and the current property owner, any future property owner and the community are subject to all the costs, inconvenience, danger and suffering that those increased flood damages may bring.

The property owner has implied that their justification for the variance request is that the structure is older than the ordinance. Unfortunately, the zoning ordinance does not specifically exempt properties and structures that were constructed before its existence. The purpose of the flood ordinance is to reduce flood risk by regulating new and existing structures that lie within the boundaries of the 1% annual chance flood zone.

*Note:* Staff has received no letters of support or opposition to this application.

#### **POSSIBLE MOTION(S)**

1. **MOVE**, that the Board of Zoning Appeals **deny** a variance to DFC Architects, PC, on behalf of the property owner, Long Term Care Properties, LLC, for variances pertaining to an expanded use and structure in the 100 year floodplain pursuant to Sections 14.1-15-3C, D, E, and J and Section 14.1-15-6A of the Winchester Zoning Ordinance, for the property located at 380 Millwood Avenue (*Map Number 233-01- -3 - > <01*), zoned Medium Residential (MR) District with Floodplain (FP) District overlay, for the following reasons:
  - a. The strict application of this Ordinance would not produce a clearly demonstrable hardship.
  - b. There has been no hydrologic or hydrostatic engineering submitted to demonstrate, the proposed expansion may cause an increase in the base flood elevation of floodwaters and result in a detriment to properties downstream
  - c. The applicant has not demonstrated that the factors to be considered in a variance (Section 14.1-18) have been satisfied.
  - d. (List any additional reasons)
  
2. **MOVE**, that the Board of Zoning Appeals **approve** a variance to DFC Architects, PC, on behalf of the property owner, Long Term Care Properties, LLC, for variances pertaining to an expanded use and structure in the 100 year floodplain pursuant to Sections 14.1-15-3C, D, E, and J and Section 14.1-15-6A of the Winchester Zoning Ordinance, for the property located at 380 Millwood Avenue (*Map Number 233-01- -3 - > <01*), zoned Medium Density Residential (MR) District with Floodplain (FP) District overlay, with the following conditions:
  - a. The issuance of this variance is approved only for the expansion as proposed within the application materials.
  - b. The issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

*This variance is approved because:*

- a. The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*



Aaron M. Grisdale, CZA  
Director of Zoning and Inspections



CASE #: 14-569  
 FEE AM'T: \$1,175.00  
 DATE PAID: 09-10-14

Rouss City Hall  
 15 North Cameron Street  
 Winchester, VA 22601  
 540-667-1815  
 TDD 540-722-0782

**APPLICATION FOR BOARD OF ZONING APPEALS**

Please print or type all information

Habitat for Humanity - Win. - Fred. Co., inc  
 Applicant

665.2197  
 Telephone

145 Baker St., Winc. 22601  
 Street Address

yo davesshore @ mris.com  
 E-mail address

Winc. VA 22601  
 City State Zip

by David Shore, Volunteer AS "Applicant" Above  
 OWNER'S SIGNATURE (use reverse to list additional owners) Owner Name (as appears in Land Records)

540.247.5128  
 Telephone

1933 Sully Ct.  
 Street Address

davesshore @ mris.com Winc. VA 22601  
 E-mail address City State Zip

REQUEST TYPE CODE - Please mark type of request and complete information  
 KEY: V = Variance; AM = Administrative Modification; I = Interpretation

| REQUEST TYPE                        | ORDINANCE SECTION          | PERTAINING TO:                                     |
|-------------------------------------|----------------------------|--|
| <input checked="" type="checkbox"/> | <u>5.1-3-1, 5.1-5-1,</u>   | <u>required lot area</u>                           |
| <input checked="" type="checkbox"/> | <u>5.1-6-1, 5.1-6-2.1,</u> | <u>front yard setback</u>                          |
| <input checked="" type="checkbox"/> | <u>5.1-8.1, 18-9-2.1</u>   | <u>SIDE YARD SETBACK, REAR YARD SETBACK,</u>       |
| <input checked="" type="checkbox"/> | <u>18-6-5.1</u>            | <u>CORNER SIDE YARD SETBACK, FRONT PORCH ENCR-</u> |
|                                     |                            | <u>OACHMENT &amp; SPACE OFF STREET</u>             |
|                                     |                            | <u>PARKING requirement</u>                         |

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section  
 Public hearing sign deposit fee: \$50

PROPERTY LOCATION  
 Current Street Address(es) 319-321 S. Kent St. Zoning HR-1 (HW)

Tax Map Identification - (sections, blocks, lots) 193-1-R-19

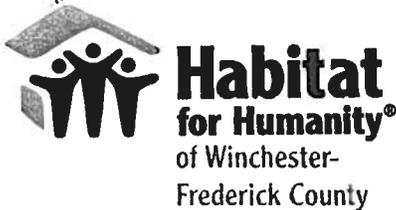
**REQUIRED MATERIALS LIST**

- 1 copy of application (this form completed)
- 10 copies of letter explaining request and grounds for request
- 10 Copies of plans/or drawings, and surveys
- Fee (check made payable to the Treasurer, City of Winchester) \$1100 (7 code sections) + \$50 (sign) + \$25 (Address) = \$1175
- List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee.
- Disclosure of Real Parties in Interest (list all equitable owners)
- Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign) inc. w/check

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE David Shore for HFW-WFC DATE 9/9/14



9/9/2014

Mr. Aaron Grisdale, CZA  
Director of Zoning and Inspections  
15 North Cameron Street  
Winchester, VA 22601

RE: Habitat for Humanity of Winchester-Frederick County, inc., 319-312 S. Kent

Dear Mr. Grisdale,

We would like a renewal of multiple variances granted to our predecessor-in-title Vivienne Jackson on January 9, 2013. The variances are still in effect until January, 2015 but the two new Habitat homes to be built on the property will not be complete by that time. In addition, we are also requesting an exemption from the 1 off-street parking space per lot requirement. The reason for this is the small lot sizes and the siting of the houses to meet the Board of Architectural Review's requirements for the historic district. The only feasible on-site parking spaces for both lots would require access and egress off S. Kent St. which is felt by staff to be highly dangerous and, therefore not advisable. From a positive standpoint, these lots, being corner lots there is approx. 94 linear feet of curb space, enough for the parking of ten vehicles. The houses proposed for these lots are both two-bedrooms. Traditionally, 2 bedroom Habitat homes have only generated one vehicle per household. They would only then utilize approx. 20% of the available street parking spaces.

I am enclosing the BZA approval of 1/9/13 as well as a plat for the proposed subdivision of the lots (should this request be approved).

Please contact me with any questions or concerns.

Sincerely,

David Shore  
Volunteer  
HFH-WFC, Inc.

P.O. Box 1653  
Winchester, VA 22604  
(540) 662-7066  
Fax (540) 450-0360  
[www.habitatwfc.org](http://www.habitatwfc.org)  
[info@habitatwfc.org](mailto:info@habitatwfc.org)

*Building houses with God's people in need.*



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

Telephone: (540) 667-1815  
FAX: (540) 722-3618  
TDD: (540) 722-0782  
Website: [www.winchesterva.gov](http://www.winchesterva.gov)

January 10, 2013

Habitat for Humanity – Winchester Frederick County  
Attention: Mr. Dave Shore  
145 Baker Street  
Winchester, VA 22601

Dear Mr. Shore:

On Wednesday, January 9, 2013, the Board of Zoning Appeals acted on the following request:

**BZA-12-621** Request of Vivienne L. Jackson, on behalf of Habitat for Humanity – Winchester Frederick County, for a variances pertaining to required lot area, front yard setback, side yard setback, rear yard setback, corner side yard setback, and front porch encroachment pursuant to Sections 5.1-3-1, 5-1-5-1, 5.1-6-1.1, 5.1-6-2.1, 5.1-8-1, and 18-9-2.1 of the Winchester zoning Ordinance, respectively, for the property located at 319-321 South Kent Street (*Map Number 193-1-R-19*) zoned Limited high Density Residential (HR-1) District with Historic Winchester (HW) District Overlay. The applicant is seeking relief of the aforementioned dimensional requirements in order to construct two (2) single family houses.

On a vote of 4-0, with Chairman Hester abstaining, the Board approved BZA-12-621 regarding the setbacks as presented subject to the following conditions:

1. The variance only pertains to the general plans included within the proposal;
2. The construction of the dwellings to be completed within two (2) years of this date of approval;
3. Approval is contingent upon receiving a certificate of appropriateness through the Board of Architectural Review for the proposed single-family dwellings, and completion of a minor subdivision with the Planning Department; and
4. The December 10, 2008, BZA approval shall become null and void when/if the applicant follows through with the submitted proposal for construction of two single family dwellings in place of a two-family dwelling structure,

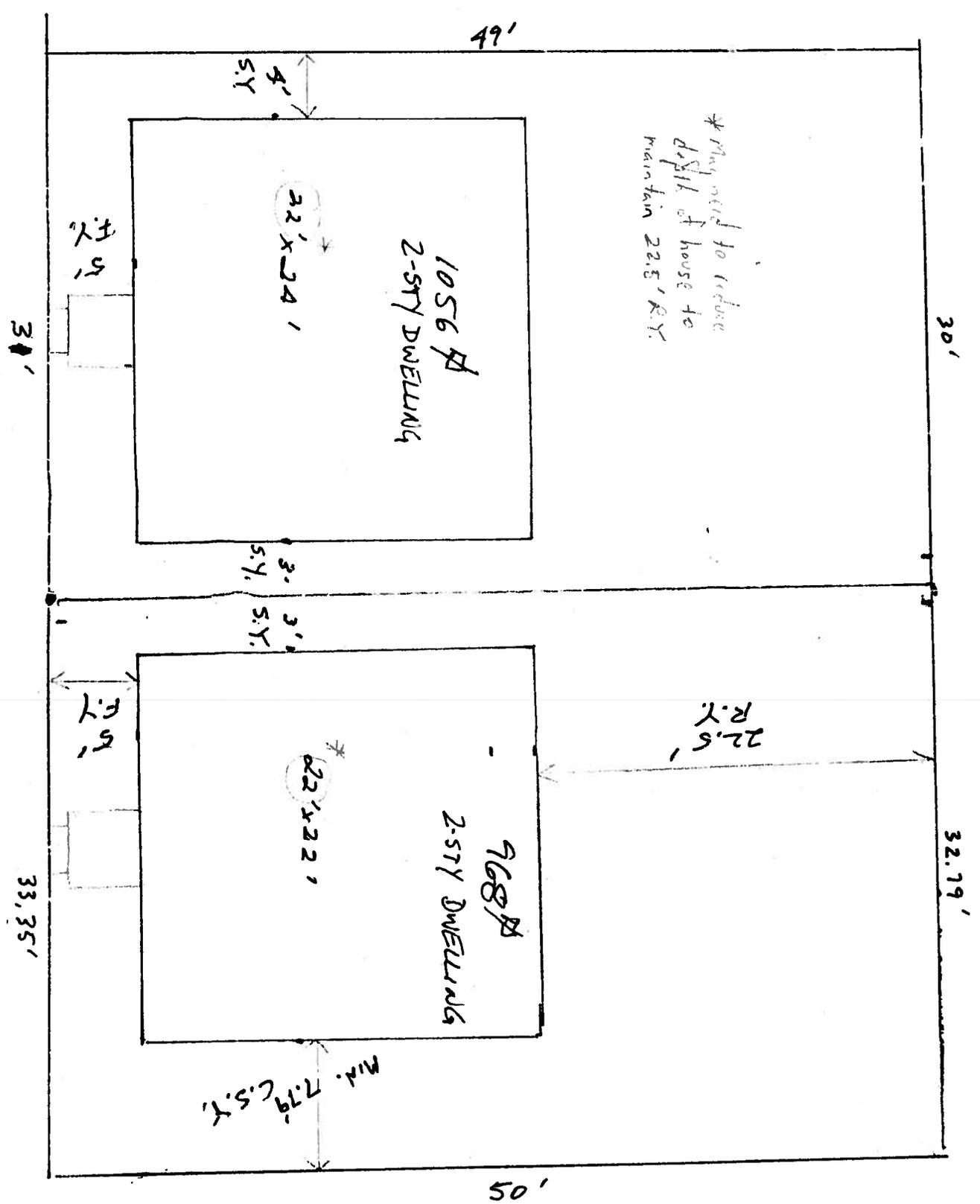
because the strict application of this Ordinance would produce a clearly demonstrable hardship and that hardship is not shared generally by other properties in the same zoning district and the same vicinity. Additionally, that the authorization of such variance will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variances.

Sincerely yours,

Aaron M. Grisdale, CZA  
Director of Zoning and Inspections

RECEIVED  
JAN 15 2013

BY: .....



E. CECIL ST

AREA TABULATION  
BEFORE ADJUSTMENT  
TM 193-1-R-19 3,178 SQ. FT.

AFTER ADJUSTMENT  
LOT 1 1,525 SQ. FT.  
LOT 2 1,653 SQ. FT.

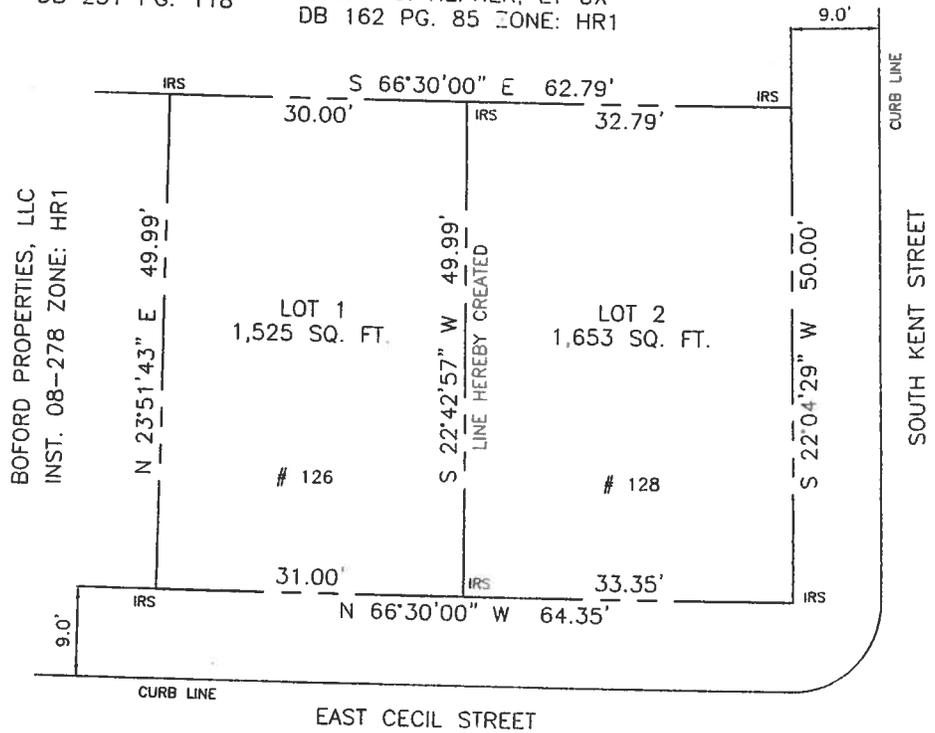
FINAL PLAT  
SUBDIVISION PLAT  
LAND OF

HABITAT FOR HUMANITY OF  
WINCHESTER-FREDERICK COUNTY  
CITY OF WINCHESTER, VIRGINIA  
TAX MAP PARCEL 193-1-R-19 ZONE: HR-1



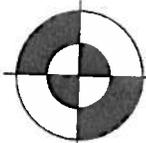
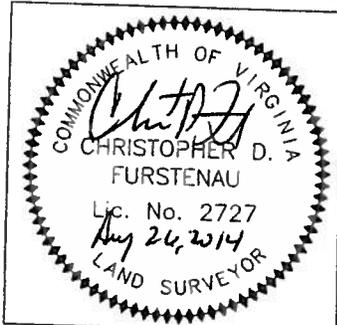
DB 231 PG. 118

ORLAN C. HEPNER, ET UX  
DB 162 PG. 85 ZONE: HR1



NO TITLE REPORT FURNISHED

VARIANCES APPROVED FOR LOT AREA,  
FRONT YARD SETBACK, SIDE YARD  
SETBACK, REAR YARD SETBACK, CORNER  
YARD SETBACK AND FRONT PORCH  
ENCROACHMENT IN CASE BZA 12-621.



CDF SURVEYING

CHRISTOPHER D. FURSTENAU, L.S.  
LAND SURVEYING-LAND PLANNING-CONSULTATION  
1520 COMMERCE STREET, #309 WINCHESTER, VIRGINIA 22601  
540 974-4268 FAX 540 722-3242 christopher@cdfsurveying.com

DATE: AUG. 26, 2014

SCALE: 1" = 15'

TAX MAP: 193-1-R-19

SHEET 2 OF 2

**WINCHESTER BOARD OF ZONING APPEALS  
REPORT AND RECOMMENDATION**



**ISSUE/BACKGROUND**

**Case:** BZA-14-569

**Applicant:** Habitat for Humanity – Winchester-Frederick County, Inc.

**Location:** 319-321 S. Kent Street

**Zoning:** Limited High Density Residential (HR) District

**Future Land Use:** Two Single Family Dwellings (lot to be subdivided in future).

**Legal Notice:** The request for variance was advertised in the *Winchester Star* on September 24, 2014, and October 1, 2014. The property was required to be posted with a public hearing sign and notices were mailed to property owners within 300' of the subject property.

**Applicant's Request:** Request of Habitat For Humanity Of Winchester-Frederick County, for variances pertaining to required lot area, front yard setback, side yard setback, rear yard setback, corner side yard setback, front porch encroachment, and amount of off-street parking requirement pursuant to Sections 5.1-3-1, 5.1-5-1, 5.1-6-1, 5.1-6-2.1, 5.1-8.1, 18-9-2.1, and 18-6-5.1 of the Winchester Zoning Ordinance, respectively, for the property located at 319-321 South Kent Street (*Map Number 193-01-R-19 - > <01*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay. The applicant is seeking relief of the aforementioned dimensional and parking requirements in order to construct two (2) single family homes.

**DISCUSSION/FINDINGS**

The request before the Board of Zoning Appeals is associated with a plan to construct two single family dwellings on a vacant lot. The subject property is located on the northwest corner of the intersection of South Kent Street and East Cecil Street and is zoned Limited High Density Residential (HR-1) District. The immediately surrounding properties on all sides are similarly zoned HR-1. Properties one block to the west are zoned Residential Business (RB-1) District and the Winchester Moose Lodge property one block

to the east is zoned Central Business (B-1) district. The previous structure on the property was demolished in response of spot blight efforts in late 2010 (Exhibit A).

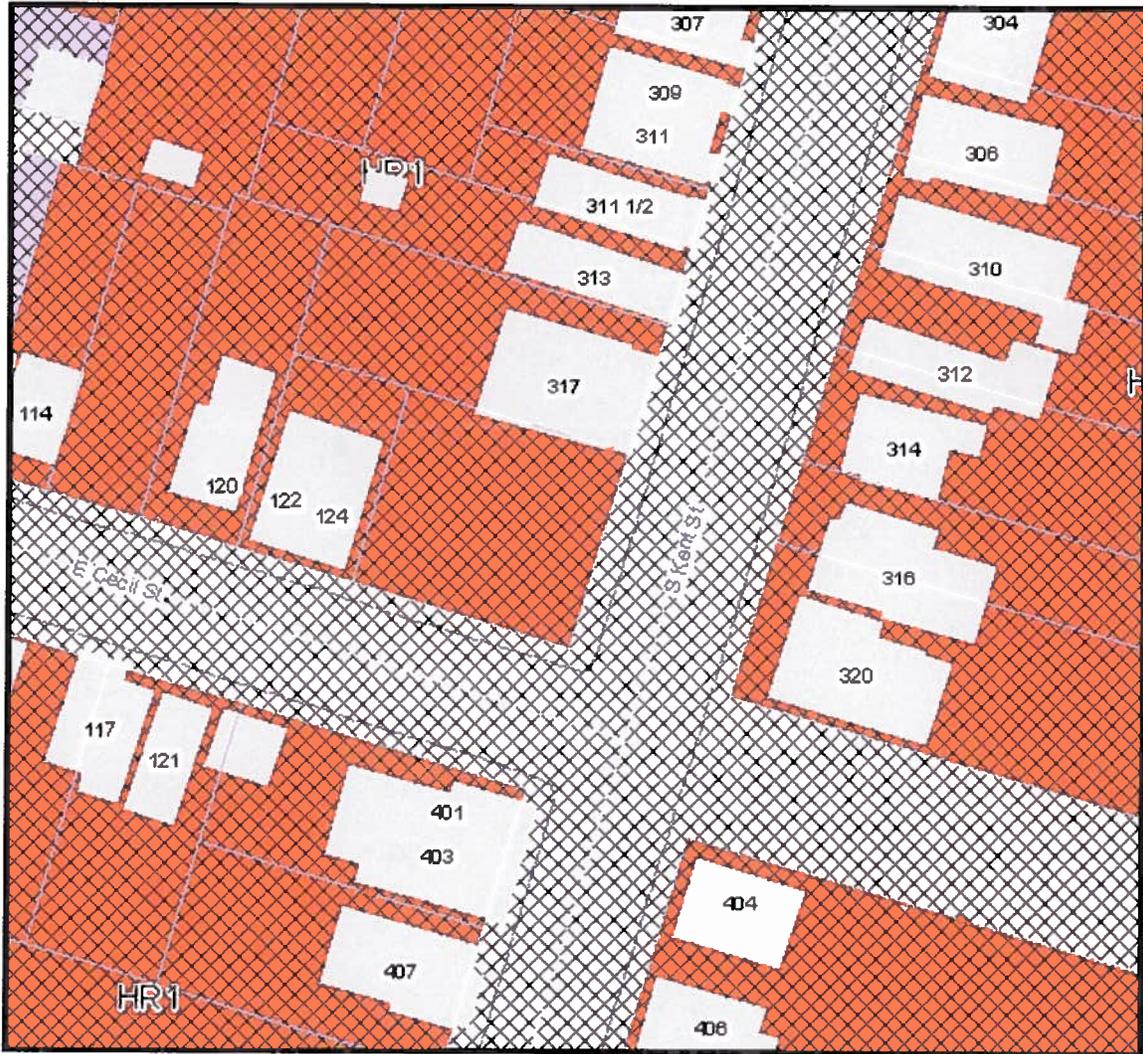


Exhibit A – Vicinity Zoning Map

This property has been the subject of the Board of Zoning Appeals in December 10, 2008. At that time DFC Architects presented a proposal to the Board to construct a two-family dwelling on the property. The Board unanimously granted the variances necessary for construction, including minimum lot area, minimum lot width, main building setback, side yard setback, corner side yard setback, minimum off-street parking and yard encroachments. The Board did not impose a time restriction to this variance approval and therefore the approval is still valid should the property owner choose to pursue this option. Additionally in January 2013, the Board of Zoning Appeals heard a request, similar to the present case, to allow for two single family dwellings to be constructed on the property. This approval

was granted and was conditioned on receiving BAR approval for the designs, the project being complete within 2 years, approval was for only the general plans as submitted, and the voiding of the previous variance should the property owner follow through with the two family dwelling construction. To date this plan for two dwelling units has not been completed.

The applicant has developed an alternate design proposal, which includes the construction of two individual single family homes on the lot, with the lot to be subdivided in the future prior to construction. The applicant has submitted planned drawings, dated December 3, 2012, in which the proposed layout is detailed. The applicant is requesting variance in the following table:

| Variance                               | Required by Ordinance   | Requested by Applicant                       |
|--|---|--|
| §5.1-3-1 – Required Lot Area           | 3,500 square feet   | Lots sized approximately 1640 SF and 1470 SF |
| §5.1-5-1 – Required Front Setback      | 20 feet   | 4.5 feet                                     |
| §5.1-6-1.1 – Required Side Yard        | 4 feet  | 3 feet                                       |
| §5.1-6-2.1 – Required Corner Side Yard | 15 feet   | 7.79 feet                                    |
| §5.1-8-1 – Required Rear Yard          | 25 feet   | 22.5 feet                                    |
| §18-9-2.1 – Front Porch Encroachment   | Limit 5' encroachment if not over 3' in height; maximum of ½ required yard encroachment | Relief of ½ required yard encroachment.      |
| §18-6-5.1 – Off-Street Parking         | 1 space per dwelling (2 total)  | 0 spaces off-street                          |

Off-street parking is required on a basis of 1 space per single family dwelling. In order to maintain the streetscape layout as approved previously by the Board of Architectural Review, the houses need to be up close to the street, and will not allow for front driveways coming off Cecil Street. The other alternative would be to provide for parking spaces off of South Kent Street. After discussions between the applicant, Planning Director, and Zoning Administrator, it was recommended that the applicant not pursue this parking option off of South Kent Street, due to the higher traffic volume and the dangerous situation of having vehicles back out directly onto this higher traffic street.

## **STAFF ANALYSIS & CONCLUSION**

According to Section 20-2 of the Ordinance, the Board of Zoning Appeals is required to make three (3) specific findings in order to approve a variance request. These findings are based on evidence, testimony, and demonstration of certain criteria, which are further defined in Section 20-2-3.1 of the Ordinance.

Section 20-2-3.1: When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the Ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the Ordinance.

- 1. That the strict application of this Ordinance would produce a clearly demonstrable hardship.**
- 2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.**
- 3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variances.**

The applicant appears to be asking for the minimum necessary variances needed to accommodate their request and enjoy reasonable use of the property. The front and corner side setbacks are proposed to be closer to the standard than many of the existing residential units in the same vicinity and zoning district. The rear yard setback is within 10% of the full required setback and the request is for the amount that could be administratively modified by the Zoning Administrator. With regards to lot area,

there are numerous properties within the 300 block of South Kent Street that are within the same proportion of lot size to number of dwelling units. Each of 301-303, 305-307, 309-311, and 311 ½ South Kent Street has approximately 1000 square feet or less per dwelling unit.

The applicant appears to have met all three (3) criteria for granting the variances. The Director of Zoning and Inspections recommends that the Board of Zoning Appeals **grant** the requested variances with conditions imposed.

The Board may approve the proposed variance, approve the variance with modifications/conditions, or deny the variance based upon the evidence presented as part of the application materials and testimony during the public hearing.

*Note:* Staff has received no letters of support or opposition to this application.

#### **POSSIBLE MOTION(S)**

1. **MOVE**, that the Board of Zoning Appeals **grant** variances to Habitat For Humanity Of Winchester-Frederick County, for variances pertaining to required lot area, front yard setback, side yard setback, rear yard setback, corner side yard setback, front porch encroachment, and amount of off-street parking requirement pursuant to Sections 5.1-3-1, 5.1-5-1, 5.1-6-1, 5.1-6-2.1, 5.1-8.1, 18-9-2.1, and 18-6-5.1 of the Winchester Zoning Ordinance, respectively, for the property located at 319-321 South Kent Street (*Map Number 193-01-R-19 - > <01*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay, with the following conditions:
  - a. The variance only pertains to the general plans included within the proposal;
  - b. The construction of the dwellings to be completed within two years of this date of approval;
  - c. Approval is contingent upon receiving a certificate of appropriateness through the Board of Architectural Review for the proposed single-family dwellings, and completion of a minor subdivision with the Planning Department; and,
  - d. The December 10, 2008, and January 9, 2013, BZA approvals shall become null and void when/if the applicant follows through with the submitted proposal for

construction of two single family dwellings in place of a two-family dwelling structure.

2. **MOVE**, that the Board of Zoning Appeals **deny** variances to Habitat For Humanity Of Winchester-Frederick County, for variances pertaining to required lot area, front yard setback, side yard setback, rear yard setback, corner side yard setback, front porch encroachment, and amount of off-street parking requirement pursuant to Sections 5.1-3-1, 5.1-5-1, 5.1-6-1, 5.1-6-2.1, 5.1-8.1, 18-9-2.1, and 18-6-5.1 of the Winchester Zoning Ordinance, respectively, for the property located at 319-321 South Kent Street (*Map Number 193-01-R-19 - > <01*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay, for the following reasons:

- a. (List reasons for denial).



Aaron M. Grisdale, CZA  
Director of Zoning and Inspections