

**BOARD OF ZONING APPEALS  
MINUTES**

The Winchester Board of Zoning Appeals held a special meeting on, April 14, 2010, at 4:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

**PRESENT:** B Hester, H Hurt, C Koneczny, J Phillips and W Roberson (5)  
**ABSENT:** None (0)  
**STAFF:** V Diem, A Walsh and B Pifer (Alternate Member) (3)  
**VISITORS:** Suellen Knowles

**MINUTES**

Mr. Koneczny asked that the motion made for BZA 10-72 be corrected.

*Mr. Koneczny moved, seconded by Mr. Phillips, to approve the March 24, 2010 minutes as amended.*

*Motion passed unanimously 5-0.*

<b><u>MEMBER</u></b>	<b><u>VOTE</u></b>
Mr. Hester	Yes
Mr. Koneczny	Yes
Mr. Hurt	Yes
Mr. Roberson	Abstained
Mr. Phillips	Yes

**COORESPONDENCE**

None

**PUBLIC HEARINGS**

**BZA 10-144** Request of Suellen Knowles for variances pertaining to lot area, side yard setback, rear yard setback and off-street parking pursuant to Sections 5.1-3-1; 5.1-6-1.1; 5.1-6-2.1 and 18-6-5.1 of the Winchester Zoning Ordinance at 28 Peyton St (*Section 173, Double Circle 1, Block I, Lot 5*), zoned Limited High Density Residential (HR-1) District.

Mr. Diem presented the request seeking relief of the minimum lot area, side yard setback, rear yard setback and off-street parking requirements to partially convert an existing accessory structure to a single-family dwelling.

The request is based on the owner's interest in renovating an existing two-story accessory structure and creating a single-family dwelling unit within the structure. Conceptually, the proposal was supported by the Board of Architectural Review at their April 1, 2010 meeting.

Following a recent ordinance amendment by City Council, the dimensional standards for single-family dwellings in the HR-1 District have been revised to encourage infill residential development and increased density opportunities. Within her application materials, the owner

provided a copy of a 1999 House Location Survey, as prepared by Edward W. Dove, L.S. The property is 30' wide and 175' long, amounting to 5,246 square feet of lot area. The required lot area per dwelling unit is 3,000 sf; therefore, amounting to needing a variance of 13% to accommodate the additional dwelling unit. The accessory structure – or location of the proposed dwelling unit – is 1.1' from the westernmost side property line and 0.8' from the easternmost side property line, therefore requiring variances of approximately 3' for side yard setback. Similarly, the rear setback from the alley exists as 9.4', which would otherwise be required to be no less than 25'. By converting one of the existing garage spaces into living space for the dwelling unit, the owner has introduced the need for a variance of one off-street parking space.

Mr. Koneczny was concerned about the zero lot line. The overhangs on both buildings hang over the property line.

**Chairman Hurt opened up the public hearing.**

Ms. Knowles gave background on the property that she has owned for 10 years. She explained what would have to be done to make this conversion possible such as putting in water and sewer and adding doors and windows to meet code. She added that the renovation would cost \$50,000 that she would not be able to afford without having the additional rental income.

Mr. Koneczny pointed out that there are windows on the zero lot line, which is against building code due to safety and fire and may have to be boarded up.

**Chairman Hurt closed the public hearing.**

Mr. Koneczny had no problem with the parking easement. He stated that there is plenty of parking in that area. He stated that 13% was not unreasonable.

*Mr. Koneczny moved, seconded by Mr. Roberson, to approve **BZA 10-144** because:*

- 1. That because of physical circumstances – such as size, shape, exceptional narrowness of the lot, or other conditions, the variance is minimum amount necessary to afford relief.*
- 2. It will have no adverse affect.*
- 3. Light or air will not be impaired to adjacent property.*
- 4. Congestion will not be substantially altered.*
- 5. Neighborhood property values will not be substantially impaired.*

*The approval is subject to the following:*

*The third window purposed will not be installed and the two existing windows on the east side be properly sealed to fire safety regulations.*

<b><u>MEMBER</u></b>	<b><u>VOTE</u></b>
Mr. Hester	Yes
Mr. Koneczny	Yes
Mr. Hurt	Abstain
Mr. Roberson	Yes
Mr. Phillips	Yes

**BZA 10-159** Request of Winchester Rescue Mission, Inc., for a variance pertaining to underground utilities pursuant to Section 18-22-1 of the Winchester Zoning Ordinance at 414 North Loudoun Street (*Section 173, Double Circle 1, Block L, Lot 7*), which is zoned Limited High Density Residential (HR-1) District, with Historic Winchester (HW) District overlay.

Mr. Diem presented the request seeking relief of the Winchester Zoning Ordinance pertaining to underground installation of utilities. Specifically, they intend to upgrade electrical service to an existing structure.

In a letter from Michael D. Cardinale, dated March 21, 2010, the applicant states the various reasons for requesting the variance. Specifically, the reasons cited by the applicant include close proximity to an existing electric pole (3'), a very large tree within 3' of the pole and within 6' of the building, which would further complicate excavation for an underground installation, and the lack of obstruction created by installing an upgraded electrical service overhead.

As is noted within the Ordinance section, there are no exceptions or administrative waivers available for commercial or industrial facilities from the requirement to install new services underground. Similar requests have been reviewed and subsequently approved through an Administrative Waiver for residential work within the City since the adoption of the Ordinance. The most recent BZA action pertaining to a similar request occurred in May 2007, in which BZA-07-05 was approved for the City of Winchester to install upgraded electrical service to a sign shop at 301 E. Cork Street at the City Yard property.

Mr. Koneczny reminded the board about the property located at 1004 Valley Avenue, which had a similar request that was denied about a year ago.

**Chairman Hurt opened the public hearing.**

**Hearing none, Chairman Hurt closed the public hearing.**

Mr. Koneczny asked where the hook up would be going.

Mr. Diem explained that it will be connected to a new entrance box immediately adjacent to the old one.

*Mr. Hester moved, seconded by Mr. Phillips, to approve **BZA-10-159** because,*

- a. The variance is in harmony with the intended spirit of the Ordinance;*
- b. That the strict application of the Ordinance would produce a clearly demonstrable hardship to the property; and,*
- c. That the authorization of the variances will not be of substantial detriment to the adjacent properties and that the character of the district will not be changed by the granting of the variance.*

**MEMBER**

*Mr. Hester  
Mr. Koneczny  
Mr. Hurt  
Mr. Roberson  
Mr. Phillips*

**VOTE**

*Yes  
Yes  
Abstained  
Yes  
Yes*

**NEW BUSINESS**

None

**OLD BUSINESS**

None

**Meeting adjourned: 5:40PM**