

**BOARD OF ZONING APPEALS
MINUTES**

The Board of Zoning Appeals held its regularly scheduled meeting on Wednesday, June 8, 2016, at 4:00p.m. in Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

POINTS OF ORDER:

PRESENT: Chairman Pifer, Vice Chairman Crawford, Mr. Lewis, Ms. Marchant, Ms. Anderson (alt.)

ABSENT: Mr. Whitacre

STAFF: Aaron Grisdale, Erick Moore, Carolyn Barrett

VISITORS: Matt Peponis, Josh Teague, Jill Sutherly

CONSENT AGENDA:

Approval of Minutes of March 9 and April 13, 2016:

Chairman Pifer called for corrections or additions to the minutes. Ms. Marchant made a motion to approve the minutes as corrected. Mr. Lewis seconded the motion. Chairman Pifer called for a vote. Voice vote was taken and the motion passed 5-0.

READING OF CORRESPONDENCE:

None.

PUBLIC HEARINGS:

None.

NEW BUSINESS:

BZA-16-323 Request of NB 333 W. Cork Street LLC for variances of the Winchester Zoning Ordinance, Sections 15-7-1 and 15-8-1 pertaining to building height and minimum corner side yard at 333 West Cork Street (Map Number 192-01-C-16 - > <01) zoned Health Services (HS) District. The request is to allow for the construction of an outdoor patio contiguous with the fifth floor of the existing structure.

Mr. Grisdale reviewed the staff report and state code requirements for the patio enclosure on the fifth floor. Staff believes the applicant is consistent with the variance requirements.

Ms. Anderson asked if the enclosure was going over top of the old ambulance entrance. Other board members said it was.

Chairman Pifer opened the public hearing

Josh Teague, Senior Vice President of Healthcare Development Partners, a nationwide real estate firm that specializes in healthcare property development and renovations, approached the board. He introduced two employees of Greenfield Assisted Living who would be addressing the board later. The property was purchased about two years ago with the intent to partner with Valley Health and bring in assisted living memory care. He presented additional information that was not covered in the staff report and reviewed the memory care facility and patio.

Chairman Pifer asked where the roofline stopped and was it flat. Mr. Teague said it was a flat roof. The enclosure is designed for security purposes. Memory care patients have been known to climb walls and fences.

Vice Chairman Crawford asked which guest would be appropriate to address the staff opinion that the west side site would be more appropriate. Mr. Teague said looking at the floor plan, there were two issues. One, operationally, it would reduce the amount of resident rooms that could be built. Second, it would also be extremely expensive to create that amount of structure. There would be significant impact to the lower floors as well. Mr. Peponis said an outdoor barrier is required by the Department of Social Services. Residents have to be given easy access to an outdoor space. He also spoke about the reasons for the requirement. There are many things they will be doing that are not found in other communities.

Ms. Anderson asked if the facility would be open to Medicare patients. Mr. Peponis said in the state of Virginia, there is no Medicare funding for assisted living. There is an auxiliary grant program which is one of the worst programs in the country. They have been working to change that program over the years. It will require a change to the law for them to be able to accept Medicare patients. Greenfield sets aside specific funds for patients who have been with them for some time, the company will make up the difference in the cost of their care on a case by case basis.

Ms. Marchant asked if the other floors were assisted living as well and would they be using the outdoor space. Mr. Peponis said no, the other patients were cognitively aware of danger. The fifth floor unit is a secure unit. The patients have to have supervision. Mr. Lewis asked what the expected project completion was and Mr. Peponis said about a year.

Chairman Pifer closed the public hearing

Vice Chairman Crawford said it was kind of confusing since it was not actually a side yard setback; it was a balcony of sorts. It's not like someone is asking if their new side

porch can jut out further than their neighbors. It's contained within the footprint of the building. The applicant makes a strong argument for why it can't be on the west side.

Ms. Marchant asked if anyone in the neighborhood had any issues or correspondence. Mr. Grisdale said there had been no correspondence. There were some calls after the public hearing signs and letters went out. Each one, after hearing what was being proposed, did not have any issues.

Vice Chairman Crawford noted there was a parking lot and one business across the street from the property. Mr. Grisdale said the possible approval motion had a condition where the approval was tied to the patio enclosure as generally depicted with some minor adjustments.

Chairman Pifer asked if they were just going to build a wall, not an enclosure, did it still qualify as an enclosure needing the variance. Mr. Grisdale said, yes, it would still be contiguous with the main building.

Chairman Pifer asked what the dimensions of the patio enclosure were. Mr. Grisdale noted that it would be about 65 feet tall. The proposed wall would be eight feet tall. Chairman Pifer asked the applicant why they chose a 12 foot wall as opposed to 10 or 8 foot wall. Mr. Teague said it was for security reasons. There was some discussion about landscaping around the patio and the type of latticework around the enclosure.

Vice Chairman Crawford moved that the Board of Zoning Appeals approve variances of the Winchester Zoning Ordinance Sections 15-7-1 and 15-8-1 pertaining to building height and minimum corner side yard at 333 West Cork Street (Map Number 192-01-C-16 - > <01) zoned Health Services (HS) District, with the following conditions:

- a. The variances are granted for a corner side yard setback of 10'-5 5/8" and an allowable building height of 65 feet.*
- b. Building permits for the proposed site improvements must be obtained within two (2) years of the date of this decision. Failure to do so will cause the variances for this property to expire.*
- c. The variances are approved for the patio enclosure as generally depicted in the application materials.*
- d. The variances are approved solely for the use of the outdoor space as part of an assisted living facility.*

The variance is approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:

- 1) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*

- 3) *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

Ms. Anderson seconded the motion. Roll call vote was taken and the motion passed 4-1.

*Vice Chairman Crawford – yes
Ms. Anderson – yes
Mr. Lewis – yes
Ms. Marchant – yes
Chairman Pifer - no*

OLD BUSINESS:

None.

ADJOURN:

With no further business before the Board, the meeting was adjourned at 4:40pm.