

## **BOARD OF ZONING APPEALS MINUTES**

The Winchester Board of Zoning Appeals held its regular meeting on Wednesday, November 13, 2013, at 4:00 p.m. in Council Chambers, Rouss City Hall, 15 N. Cameron Street, Winchester, Virginia.

### **POINTS OF ORDER:**

**PRESENT:** Chairman Phillips, Mr. Lewis, Ms. Marchant, Mr. Crawford  
**ABSENT:** Mr. Pifer, Mr. Ridgell  
**STAFF:** Aaron Grisdale, Nasser Rahimzadeh, Catherine Clayton  
**VISITORS:** Brian Beazer, Scott Rodgers

### **CONSENT AGENDA:**

Approval of Minutes of October 9, 2013.

Chairman Phillips called for corrections to the minutes. Hearing none, he called for a motion. Ms. Marchant moved to approve the minutes as submitted. Mr. Lewis seconded the motion. Voice vote was taken and the motion passed, 4-0.

### **READING OF CORRESPONDENCE:**

None.

### **PUBLIC HEARINGS:**

**BZA-13-591** Request of Winchester Cold Storage Company, Inc., for a variance pertaining to main building setback regulations pursuant to Section 11-6 of the Winchester Zoning Ordinance, for the property located at 605 N. Loudoun Street (*Map Number 153-01-I-1*) zoned Limited Industrial (M1) District. The applicant is proposing to enclose the loading dock.

Chairman Phillips abstained from voting however, in the absence of Vice Chairman Pifer, he conducted the meeting.

Mr. Grisdale presented the staff report and advised that the applicant is seeking relief from the required front yard setback for main buildings as the property owner wants to enclose the existing loading dock on the east side of the main building. He stated that the loading dock was constructed in 1917, which predates the 1960 and 1976 Winchester Zoning Ordinance. As a result the structure is legally nonconforming pertaining to setbacks. The proposed enclosure will result in a 26-foot setback, where a 50-foot setback is required. Mr. Grisdale further stated that the work has already begun but the applicant is doing the right thing and is here to request the deficient setback. Staff believes that there may be an argument for a demonstrable hardship

adding that the current dock area does not meet the minimal setback requirement and that the proposal will not increase the footprint of the proposed structure. Furthermore, staff believes that the proposed enclosure would actually minimize and improve the impact of the existing use on the surrounding properties by having a greater percentage of the use taking place inside of an enclosed structure. Staff has received no letters in support of or in opposition to the proposal.

Mr. Crawford then asked when the work actually began on the project. Mr. Grisdale stated that he is unsure of the exact date and that he would defer that to the applicant but that it was roughly within one (1) month of the application.

### **Chairman Phillips opened the Public Hearing.**

Mr. Beazer, Winchester Cold Storage, was sworn in and then addressed the Board stating that the project should be viewed in three (3) parts: what they would like to do; why they need to do it; and the benefits that will come from it. First, though, he stated that he wanted to answer Mr. Crawford's question. He advised that approximately two (2) weeks before they applied they did start work on the project. He stated that basically what they are doing is to enclose the front dock that is along Loudoun Street, putting up a cinder block enclosure that is a non-structural, non-supportive wall. It will not support the roof or anything else and they are not changing the use of the facility. He added that there were some communication errors about the project and the permit process. He said that they assumed that the people putting up the wall were taking care of this and the contractor assumed that Winchester Cold Storage was doing it and they were still in discussion with themselves as to whether they needed to do it and at that point they found out that they did need to go through the permitting process. He then stated that he was out of town and so Mr. Rodgers completed the paperwork the day that he found out that they needed to take care of all of this. He then stated that really it comes down to why they need to do it. It is because, as a cold storage facility, they are required by the USDA, the FDA, and even now Homeland Security, because of where their product goes, to be compliant with the GFSI, which is the Global Food Safety Initiative. It has not been an issue until the last few years when they started supplying more and more "stuff" across the nation and not just here locally and because of this, they are being asked, "what is the cold chain and where is it breaking at their facility?" He said that they are getting "dinged" at that point, on the dock when it comes in from the truck and it is an open-air dock. So they need to close it so that they can be in compliance with the GFSI and so that they can keep the customers and to keep people employed there. If not, it will be tough for them to keep the customers that they have and to keep people employed. Although they could move the business, it would be out of the City and it would come at a greater expense to them. Some of the benefits are that it would enclose the product and make it safer for the product, the employees, and the surrounding area. The neighbors will not hear the noise because the fork trucks will be within the enclosed area. He concluded by asking if the Board had any additional questions.

Ms. Marchant asked if it is going to be totally closed in or just partially to which Mr. Beazer responded that technically it will be partially closed in. He also stated that they are planning to paint it a gray color to make it look nice.

Ms. Marchant then asked if all of the neighbors have been notified. Mr. Gridale responded that the applicant was required to send out a public hearing notice to all property owners within 300-feet of any portion of this parcel. There were 50-some different property owners who were required to be notified and the applicant did send back certification that all notices had gone out. In addition, two (2) Public Hearing notification signs were placed on display at the property, as well as two (2) public newspaper advertisements.

**Chairman Phillips closed the Public Hearing.**

Chairman Phillips then called for discussion from the Board.

Mr. Crawford stated that prior to discussion he wanted to go on record that in the capacity as purchasing manager for Berryville Graphics, they have rented storage space from Winchester Cold Storage but other than that, he will not disqualify himself as this was not a personal relationship but rather it was a corporate relationship.

Chairman Phillips once again recused himself from voting and called for a motion.

Ms. Marchant moved to grant a variance to Winchester Cold Storage Company, Inc., for a variance pertaining to main building setback regulations pursuant to Section 11-6 of the Winchester Zoning Ordinance, for the property located at 605 North Loudoun Street (*Map Number 153-01-I-1*), zoned Limited Industrial (M1) District, with the following condition:

- The variance will expire in two (2) years should the site improvements not be completed.

Mr. Lewis seconded the motion. Roll call vote was taken and the motion passed 3-0-1 (Phillips abstained).

**OLD BUSINESS:**

None.

**ADJOURN:**

With no further business before the Board, the meeting adjourned at 4:13 p.m.