

**BOARD OF ZONING APPEALS
MINUTES**

The Board of Zoning Appeals held its regularly scheduled meeting on Wednesday, February 8, 2017, at 4:00p.m. in Council Chambers, Roush City Hall, 15 North Cameron Street, Winchester, Virginia.

POINTS OF ORDER:

PRESENT: Chairman Pifer, Vice Chairman Crawford,
Ms. Marchant, Mr. Whitacre, Mr. Lewis,
Ms. Anderson, Mr. Pahl

ABSENT: None

STAFF: Aaron Grisdale, Erick Moore and Carolyn Barrett

VISITORS: Gerald Arnett, Suellen Knowles, Robin Casey,
Stan Corneal, Roberta Walters, Laurie Bridgeforth

Mr. Grisdale called the meeting to order.

Mr. Crawford nominated Mr. Pifer as Chairman. Ms. Anderson seconded the motion. Voice vote was taken and the motion passed 7-0.

Chairman Pifer nominated Mr. Crawford as Vice Chairman. Mr. Whitacre seconded the motion. Voice vote was taken and the motion passed 7-0.

CONSENT AGENDA:

Approval of minutes of December 14, 2016

Chairman Pifer called for corrections or additions to the minutes. Mr. Whitacre made a motion to approve the minutes as submitted. Ms. Marchant seconded the motion. Voice vote was taken and the motion passed 7-0.

READING OF CORRESPONDENCE:

None.

PUBLIC HEARINGS:

BZA-17-030 Request of Stan Corneal for a variance of the Winchester Zoning Ordinance, Section 18-6-3.2 pertaining to off-street parking buffer at 411 N. Loudoun Street (Map Number 173-01-I-1) zoned High Density Residential (HR) District with Historic Winchester (HW) District Overlay. The applicant is seeking this variance to allow for a driveway surface to encroach into the side and rear parking buffer to accommodate the creation of covered off-street parking in the rear of the property.

Mr. Grisdale reviewed the staff report and possible motions for the variance request.

Vice Chairman Crawford asked if there was a requirement that there be 10 garage spaces or are no garage spaces an option; could there be 9 garage spaces and a parking spot as an option. Mr. Grisdale said the site is grandfathered in with the existing layout of non-delineated parking that exists today. The garages are not stipulated as a requirement in the current zoning ordinance so however many spaces are up to the applicant. Mr. Lewis stated that there are 10 units in the building so he assumed they will want 10 garages. Mr. Grisdale said that was the applicant's argument as part of the quality of the development that's being proposed.

Mr. Whitacre asked if they could build up to the lot line in the Historic District, for example, if 414 North Braddock wanted to build a detached garage in the back, could they build up to the lot line or were the setbacks because this is a multi-family project. Mr. Grisdale said the structure itself has a minimal setback off the property line. The issue is with the driving surface itself. There is a buffer requirement for driving surfaces and parking areas to have a separation from the property line. Mr. Whitacre asked if the actual structure could be built to the property line and Mr. Grisdale said yes, it could with the current design. Ms. Anderson asked if they will be permitted access from the parking area onto Lafayette Place. Mr. Grisdale said the topography limits the feasibility of access.

Chairman Pifer opened the public hearing

Ms. Knowles, 28 Peyton Street, said that the deed for her property stated that access to the alley has to be kept open for the people who own property along the alleyway so they have access to their garages. She is pleased with the plan for what Mr. Corneal is doing for the neighborhood but she is concerned with the stability of the parking area. She noted an area on the western side where cars turn around. When the subject property was purchased, the owners came in and cut down all the trees and now when it rains, the water comes down into her property. She saw trucks coming in and putting down fill dirt and was wondering if anything had been done to shore up that area and strengthen it and were there plans to do so. Mr. Crawford said the Board was here for zoning purposes and other city departments would be the ones to deal with that issue. Ms. Knowles asked if there was any format to make sure the area was strong enough to deal with cars in that area. Mr. Crawford restated that it was a different department in the city that dealt with that. Ms. Knowles asked if they were just interested in the parameters and not the purpose. Mr. Crawford said yes.

Robin Casey, 21 Peyton Street, stated her concerns about parking in the neighborhood and that it is extremely tight. She wanted to know where the overflow parking would be for the garages. Most people have more than one car. How will it impact the neighborhood? She hoped the Board would take that into

consideration as there is no extra space on the street for more cars. Mr. Lewis asked what the conditions were when the building was a 16 unit building. Ms. Casey said to her recollection, there was a parking lot in the back and up against the building. She did not remember anyone saying there was not ample parking. Mr. Lewis asked if street parking was not relieved by that and she said no. There have been many times when she has had to park some distance from her home and walk. She has tried to make observations on different nights but every night people have trouble finding parking.

Mr. Grisdale said he wanted to clarify some of the items. This case is still in the initial site plan review stages. In terms of parking and a retaining wall, that will be firmed up with the site plan review. The retaining wall may require a building permit as well. The garages are not the only off street parking being provided. There are designated parking spaces in the courtyard area. Vice Chairman Crawford said it looked like there may be 9 or 10 spaces there.

Stan Corneal stated he wanted to clarify some of the items being addressed. They want to create as much on-site parking as possible. The units are being reduced from 16 to 10. There will be 10 surface parking spaces in front of the building and 10 garages in the back. They want to put in four parking spaces for visitors and that is why they are asking for the buffer. Chairman Pifer asked if 10 garage spaces are really needed, why not 5 or 6. Are the garage spaces primarily for tenants or will they be additional income as storage units? Mr. Corneal said they are condominiums with garages and will be sold as such so there will be individual owners. It will no longer be an apartment building. How they will be used will be up to the owners. The condominium association will not allow the garages to be rented out. There were more garages but they were unaware that the City had water and sewer running down the middle of the property. This configuration allows them to build up to the property line and swing inward for the last garage. Vice Chairman Crawford asked if the garages are fully enclosed. Mr. Corneal said they would be sectioned off and have doors.

Roberta Walters, 414 South Braddock Street, said her property is located just below where the parking area will be. She is trying to finish some of the projects her husband started. She went by the property and met with the city engineer to look at the area where the parking will be at 411 South Braddock Street. There is debris over the embankment and a pipe for something sticking out. Her grievance is that her yard will turn into a swamp when it rains because of it. She showed pictures of the issues to the Board. Mr. Whitacre reiterated that the Board's job is to focus on the zoning, not storm water management, as that is a different city department.

Chairman Pifer closed the public hearing

The board members agreed that the request adds to the off street parking; however, Vice Chairman Crawford noted that it was right up against the western

side. Chairman Pifer said he understood the garages from a real estate/selling point but felt they were not actually necessary. There had been a previous variance where garages had been built as an income producing property. Ms. Marchant said that the more off street parking that could be provided in that neighborhood, the better. Vice Chairman Crawford wondered how many people would be parking in the garages and how much would they be used for storage. Mr. Lewis said someone would be there for at least two to three years and having a garage makes sense whether used for a car or storage. It may be a concern if it's only used for storage. Mr. Whitacre said it was not really the Board's concern if someone parked in their garage or not. They should focus on the criterion and the staff analysis. He felt they should approve it and owners could do whatever they wanted once it's built.

Mr. Whitacre made a motion to approve a variance of the Winchester Zoning Ordinance, Section 18-6-3.2 pertaining to off-street parking buffer at 411 North Loudoun Street (Map Number 173-01-I-1) zoned High Density Residential (HR) District with Historic Winchester (HW) District overlay, with the following conditions:

- a. The variance reduces the off-street parking buffer off of the northern property line to 0-feet.*
- b. The variance reduces the off-street parking buffer off of the western property line to approximately 10-feet as depicted on the drawing provided by Greenway Engineering dated January 18, 2017.*
- c. Any portions of the off-street parking area encroaching into the northern setback shall utilize grasscrete or a comparable permeable material as determined by City staff.*

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. Marchant seconded the motion. Roll call vote was taken and the motion passed 3-2.

BZA-17-031 Request of Shenandoah Arts Council for a variance of the Winchester Zoning Ordinance, Section 18-6-5 pertaining to the amount of off-street parking at 811-813 South Loudoun Street (Map Number 212-1-G-12) zoned Central Business (B-1) District. The applicant is seeking to modify use limitations associated with a previous zoning variance pertaining to parking requirements granted by the Board. The current use of the upstairs floor area is currently limited to use strictly by the Shenandoah Arts Council.

Mr. Grisdale reviewed the staff report, the requirements for the variance and the possible motions.

Vice Chairman Crawford asked how many parking spaces there were at 811 South Loudoun Street. Mr. Grisdale said there were none, the building encumbered the entire property. Originally, in the 1980 variance, it was viewed in combination with 801 South Loudoun Street at the corner which does have some off street parking.

Chairman Pifer opened the public hearing

Laurie Bridgeforth, Secretary of the Shenandoah Arts Council Executive Board, said she hoped the Board would pass the motion because the Arts Council depends on second floor rental income to meet budget requirements. They did not realize there was a problem and wanted to get it corrected. There is space upstairs that is currently not rented but they have a tenant ready based on the decision of the Board. Mr. Lewis asked about having a small hair salon or barbershop as a rental. Ms. Bridgeforth said that was just an example. They did not want to rent to a business with 35 employees and people coming and going all day. They had solo practitioners in mind, such as lawyers. They wanted to have options available.

Chairman Pifer closed the public hearing

Vice Chairman Crawford asked what the parking was like in the day time. At night, the street gets really parked in and he did not know if there was two-hour parking or not.

The board members discussed the different businesses that may be allowed at the location. Mr. Whitacre said it made sense to rent to a massage therapist or other small business.

Ms. Marchant made a motion to approve a variance of the Winchester Zoning Ordinance, Section 18-6-5 pertaining to amount of off-street parking at 811-813 South Loudoun Street (Map Number 212-1-G-12) zoned Central Business (B-1) district, with the following conditions:

- a. The usage of the second floor to be used for only the following uses in the Zoning Ordinance, with a maximum number 8 people working in the space(s):
§9-1-10 – Convenience service establishments, such as barber shops and beauty salons (but not automatic self-service laundries).
§9-1-19 – Museums and public arts galleries.
§9-1-21 – Offices, business and professional.*
- b. Any receptions held by the Arts Council to be held after 5:00 PM weekdays or anytime Saturdays or Sundays; and,*
- c. The first floor to continue to be used specifically for artistic purposes as presented and supervised by the Shenandoah Arts Council.*

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.*

Mr. Whitacre seconded the motion. Roll call vote was taken and the motion passed 5-0.

NEW BUSINESS:

2016 Annual Report

Ms. Marchant made a motion to accept the 2016 Annual Report as presented. Mr. Whitacre seconded the motion. Voice vote was taken and the motion passed 5-0.

OLD BUSINESS:

None.

ADJOURN:

With no further business before the Board, the meeting was adjourned at 5:02pm.