

**BOARD OF ZONING APPEALS
MINUTES**

The Winchester Board of Zoning Appeals held its regular monthly meeting on August 8, 2007, at 4:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

PRESENT: Phillips, Koneczny, Hurt, Wiley, Roberson

ABSENT:

STAFF: Diem, Moore, Van Diest

VISITORS: Ben Montgomery

On motion by Mr. Koneczny, seconded by Mr. Wiley, the minutes of the July 11, 2007 meeting were unanimously approved.

CORRESPONDENCE

None

PUBLIC HEARINGS

None

OLD BUSINESS

BZA-07-15 – Request of Jenkins-Cooper, LLC for a variance of the Winchester Zoning Ordinance, Section 8-8-1, pertaining to the corner side yard setback at 2944-2950 Valley Avenue (*Section 310, Double Circle 1, Lots 27 & 28 and Section 310, Double Circle 8, Block B, Lot 1A*) zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) overlay. *Previously tabled at the July 11, 2007 Meeting*

Mr. Diem stated this request was previously heard at the July 11, 2007, meeting where it was tabled. He added the applicant was present to provide the BZA with additional information.

Ben Montgomery stated the property will remain a residence until the site plan is approved. At that time, the property will become commercial. He added that he was not aware that the property could not go back to being a residence after that change was made. This is not an issue. The house will eventually be demolished.

Mr. Phillips asked if the Planning Department is satisfied. Mr. Moore stated the BZA approval is the only thing holding up the Planning Department's approval.

Mr. Phillips, seconded by Mr. Koneczny, moved to conditionally approve BZA 07-15 to permit the commercial redevelopment of the subject property, by granting a variance to the required corner side yard setback distance, with the following conditions imposed:

1. After converting the use of the single-family dwelling for commercial redevelopment, future use of the structure for residential use and occupancy will then require a Conditional Use Permit; and,
2. No further encroachment into either the required front yard or required corner side yard will be permitted; because,
 - a. The variance is in harmony with the intended spirit of the Ordinance; and,
 - b. That the strict application of the Ordinance would produce a clearly demonstrable hardship to the property; and,
 - c. That the authorization of the variance 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.

The Motion passed 5-0-0.

OTHER

Mr. Koneczny welcomed Wilborn Roberson as a new member of the BZA. Mr. Koneczny requested a City pin be given to Mr. Roberson.

Mr. Diem informed the BZA that a letter dated June 28, 2007 was received from Gary Chrisman regarding the residential subdivision on Walnut Court. Mr. Chrisman is requesting a delay in the tree planting and in building the condominiums for five years.

Mr. Diem asked what time period the BZA will allow to build the condominiums. Mr. Koneczny stated he did not think the BZA addressed a time period in the motion. Mr. Hurt asked if there is a time restraint set by the State once a motion is filed.

Mr. Diem suggested the BZA recommend the matter be brought to the City Attorney for a legal opinion and discuss it at the next meeting. He added that Mr. Chrisman wants to build the houses and get the Certificates of Occupancy but he will not be in compliance with the BZA's decision.

Mr. Moore explained that Mr. Chrisman could build on the existing subdivision. However, the largest plot is what he is concerned about. Mr. Chrisman cannot build the single family home until the variances are met.

Board of Zoning Appeals

Minutes – August 8, 2007

Page 3

Mr. Wiley, seconded by Mr. Koncezny, motioned to seek legal council for this matter. The motion passed 5-0-0.

With no further business to discuss, the meeting was adjourned at 4:23 p.m.