

**BOARD OF ZONING APPEALS
MINUTES**

The Winchester Board of Zoning Appeals held a special meeting on, June 8, 2011, at 4:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

PRESENT: B Hester, C Koneczny, J Phillips and B Pifer (4)
ABSENT: H Hurt and W Roberson (2)
STAFF: Vince Diem and Angela Walsh (2)
VISITORS: Josh Case

MINUTES

Mr. Hester moved, seconded by Mr. Phillips, to approve the minutes of May 8, 2011 as presented.

<u>MEMBER</u>	<u>VOTE</u>
<i>Mr. Koneczny</i>	<i>Yes</i>
<i>Mr. Pifer</i>	<i>Yes</i>
<i>Mr. Phillips</i>	<i>Yes</i>
<i>Mr. Hester</i>	<i>Yes</i>

CORRESPONDENCE

None

ELECTION OF OFFICERS

Mr. Phillips moved, seconded by Mr. Hester, to postpone the vote until Chairman Hurt could be present.

Motion passed unanimously.

PUBLIC HEARINGS

BZA-11-263 Request of Josh Case for a variance pertaining to minimum side yard pursuant to Section 8-6-1d of the Winchester Zoning Ordinance, for the property located at 625 Berryville Avenue (*Map Number 195-07-S -133D*), which is zoned Highway Commercial (B-2) District.

Brandon Pifer recused himself.

Mr. Diem presented the request seeking relief of the Zoning Ordinance, regarding minimum side yard, for a nonconforming mixed use commercial-residential property currently containing one building. The applicant is looking to construct a deck on a portion of the front of the structure.

The applicant, Mr. Case, applied for a building permit to construct a deck on the front of his property at 625 Berryville Avenue. Upon staff review of the permit, it was observed that a variance would be required prior to approval

This property is legally nonconforming with regards to both a mixed commercial-residential use and dimensionally. The applicant was seeking a variance to allow him to construct a deck on a

portion of the front of the building. The deck is fourteen (14) feet wide and ten (10) feet deep and ten feet three inches (10'-3") in height to the deck surface.

On nonconforming lots of record, which this property meets the definition, permitted structures may be erected as long as any required variances are granted through the Board of Zoning Appeals, pursuant to Section 17-6-4 of the Zoning Ordinance.

The existing building is situated on the southern side property line with a zero (0) foot setback. The proposed deck will be in line with the edge of the existing building. The proposed deck will also be in line with the southern property line. Therefore the applicant sought relief of the ten foot side yard setback requirement, resulting in a zero foot setback in line with the existing nonconforming building.

Vice-Chairman Koneczny opened public hearing.

Josh Case explained that he bought the building and put all he had into this property. The remodeling that is being done inside the building is being done in coordination with these balcony beams. The door will not be able to open if the balcony is only four (4) foot wide. He promised to take all safety and permitting steps required.

Vice-Chairman Koneczny explained that with only three (3) voting members, it would take a unanimous vote for this to be approved. He asked if Mr. Case wanted to proceed or table the vote until next month.

Mr. Case asked to proceed.

Mr. Phillips asked if the stoop would be pressure treated and where the steps would be located.

Mr. Case explained that he wanted to use iron railing. As for the steps, he would be moving them inside. By doing that and adding the balcony he will be able to enlarge the living space.

Vice-Chairman Koneczny asked if the front of the building will be improved as well.

Mr. Case explained that the back had to be finished before he could proceed with that portion of the building. There is a water problem that has to be corrected before he can move forward.

Mr. Hester asked how long it will take it install the deck.

Mr. Case stated that he has already purchased the material. He could start right away.

Vice-Chairman Koneczny closed the public hearing.

Vice-Chairman Koneczny stated that he is not opposed to the project as long as a date is given its completion. He suggested one (1) year.

Mr. Phillips stated that Mr. Case is trying to improve the property. He did not like the idea of adding stipulations.

Mr. Hester agreed that a limit should be set, but he did not want to add a stipulation with too short a time period, forcing the applicant to throw something up to appease the Board.

Vice-Chairman Koneczny asked how many times they have seen approvals without an expiration date linger on or never get done and become a blighted property. He gave the Triangle Diner as an example.

Mr. Hester added that the request is regarding the porch/deck, so the stipulation should be for that portion only. He had a hard time adding stipulations to a project when the applicant obviously is doing what he can to improve what is there.

Mr. Phillips agreed, stating that he felt the Board was pushing the applicant.

Mr. Hester moved, seconded by Mr. Phillips, to grant the requested variance identified in BZA-11-263, pertaining to minimum lot width, based on the following circumstances:

- 1. The Board finds that the strict application of the Ordinance would produce a clearly demonstrable hardship; and,*
- 2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and,*
- 3. That the authorization of such variance will not be of substantial detriment to adjacent properties and that the character of the district will not be changed by granting the variance.*

Adding the condition that all work should be completed within two (2) years of this approval date.

<u>MEMBER</u>	<u>VOTE</u>
<i>Mr. Koneczny</i>	<i>Yes</i>
<i>Mr. Pifer</i>	<i>Recused</i>
<i>Mr. Phillips</i>	<i>Yes</i>
<i>Mr. Hester</i>	<i>Yes</i>

NEW BUSINESS

None

Meeting adjourned: 4:20PM.