

**BOARD OF ZONING APPEALS  
MINUTES**

The Board of Zoning Appeals held its regularly scheduled meeting on Wednesday, March 9, 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. Whitacre, Ms. Marchant

**ABSENT:** Mr. Lewis, Ms. Anderson

**STAFF:** Aaron Grisdale, Erick Moore, Carolyn Barrett

**VISITORS:** Rock Skowbo, Stacie Brown

**ELECTION OF OFFICERS:**

Ms. Marchant nominated Brandon Pifer as Chairman. Mr. Whitacre seconded the nomination. Voice vote was taken and the nomination passed 3-0.

Ms. Marchant nominated Don Crawford as Vice Chairman. Chairman Pifer seconded the nomination. Voice vote was taken and the nomination passed 3-0.

**CONSENT AGENDA:**

Approval of Minutes of September 9, 2015:

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. Chairman Pifer called for a vote. Roll call vote was taken and the motion passed 4-0.

**READING OF CORRESPONDENCE:**

None.

**PUBLIC HEARINGS:**

**BZA-16-038** Request of Mario Katrandjiyski for variances of the Winchester Zoning Ordinance, Sections 5.1-3-3, 5.1-4-2 and 5.1-6-1.2 pertaining to required lot area, lot width and side yard setback at 355 and 355 ½ National Avenue (*Map Number 174-01-K -31*) zoned Limited High Density Residential (HR-1) District. The request is to grant variances to a non-conforming structure to allow for it to be reused as a two-family dwelling.

Mr. Grisdale presented the staff report. The property has been vacant for more than two years which resulted in the legal nonconformities expiring. The property is also deficient in Zoning Ordinance requirements. The property owner has requested that a two-family dwelling use be permitted at the

property, to resemble the previous use of the property. This use requires a conditional use permit from City Council.

Chairman Pifer disclosed that his company manages 357-359 National Avenue but did not feel that it was sufficient cause for him to recuse himself.

### **Chairman Pifer Opened The Public Hearing**

No one spoke during the public hearing.

### **Chairman Pifer Closed The Public Hearing**

Vice Chairman Crawford noted that if the parking lot was lined properly, there would be more than enough parking spaces for two units. His concern was that City Council had stated very clearly through the ordinance that zoning would revert to what the new zoning was if a building had been abandoned for a number of years. There was no longer a by-right possibility of having it the way before if it was a non-conforming use.

Chairman Pifer said he had no issue with it being a multi-family use as it was before, as long as it doesn't fall into the state of disrepair that it was in. Mr. Whitacre said he agreed with Vice Chairman Crawford. He noted that the property was listed as under contract. Mr. Grisdale said the current owner is facilitating the variance for the contract. Ms. Marchant said the owner had mentioned the property had always been a duplex but she did not see that proved anywhere in the documents. Mr. Grisdale said it had been a two-family dwelling for a couple of decades.

*Ms. Marchant made a motion to approve the variance of the Winchester Zoning Ordinance, Sections 5.1-3-3, 5.1-4-2 and 5.1-6-1.2 pertaining to required lot area, lot width and side yard setback at 355 and 355 ½ National Avenue (Map Number 174-01-K -31) zoned Limited High Density Residential, HR-1 District, with the following conditions:*

- a. The variances are granted to allow for the use of the structure as only single-family dwelling;*
- b. The variances are granted only for the current footprint of the structure. Any future alteration to the structure's footprint will only be permitted in such a way as nonconforming setbacks are reduced;*
- c. The variances will expire if the property ceases to be used for a two year period.*

*The variances are 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.*

*Vice Chairman Crawford seconded the motion. Chairman Pifer asked for a roll call vote.*

*Vice Chairman Crawford – yes*

*Ms. Marchant – yes*

*Mr. Whitacre – yes*

*Chairman Pifer – no*

*Chairman Pifer stated the motion passed 3-1.*

**BZA-16-095** Request of Stacie Smith Brown for variances of the Winchester Zoning Ordinance, Sections 10-3-1, 10-5-1, 10-6-1 and 10-8-1 pertaining to minimum lot area and width, main building, side yard and corner yard setbacks at 574 North Loudoun Street (*Map Number 153-01-G-1*) zoned Commercial Industrial (CM-1) District. Variances are being requested to establish an extended stay use in a non-conforming structure.

Mr. Gridale presented the staff report. He outlined what the issues and setbacks were currently and what was required under the ordinance. Since the previous residential two-family use is not permitted in the CM-1 district, and the nonconformity has expired, the use may never be reinstated. Staff believes a hardship exists in this situation. Mr. Gridale reviewed the criteria for use in that district.

### **Chairman Pifer Opened The Public Hearing**

Stacie Brown, 101 Christa Court, Charlottesville, Virginia, stated she had unknowingly purchased property with a building with inherent problems that she did not understand at the end of 2013. After closing, she ran into problems she did not know how to handle which left the building vacant for two years. The only way to put the building back into service was to approve the variances. She said the neighbor was amenable to the parking area being used. The only time she uses the area is when she is taking large items to the dump. Ms. Brown said she could not afford to carry a vacant property.

Ms. Marchant asked about the parking situation and Ms. Brown showed the board pictures of the current area. Vice Chairman Crawford asked about the doors being numbered one through four and how many units were in the building. Ms. Brown said there were two units, each one had two doors. She said she had never seen the numbers he was talking about.

Rock Skowbo, 566 North Loudoun Street, spoke in favor of the variance for extended stay use. He said it does not make any sense to restrict the use of the building as a residence. Sometimes it can take a few years to get a property ready to use. He had read about it in the newspaper and noted another neighbor had spoken against the use at the Planning Commission meeting because of the type of people it might attract. He has had many people move in and out of his property; sometimes they stay a few months, other times a few years and has not had issues. He said many people in that area do not have cars and walk to where they need to go. He also said it was unrealistic to not allow the use of the

building. It would be one thing if the City had a plan for use of that lot for some other reason and it would make sense to get rid of all those houses. He realizes the houses in that area are out of place. He had heard that there might be more residential units becoming available near that area.

### **Chairman Pifer Closed The Public Hearing**

Chairman Pifer said his only concern was with extended stay being used as a boarding house and you don't know what exactly they're going to use it for. He did not have issues with the building and that the units had been fixed up nicely. As long as it wasn't used as a boarding house, he didn't have any issues.

Ms. Marchant asked if it still had to go to Council for any kind of use and Chairman Pifer said yes. She asked about the option to pull down part of the building to make more parking. Mr. Grisdale said under Option One-Part Two, the addition on the back was not part of the original structure. The adjacent property may be sold in the future and even though there is an agreement between neighbors now, it may change.

Vice Chairman Crawford repeated what he had said earlier about Council's intent with the zoning ordinance. Ms. Marchant said she did not see what options were available if the variance was not approved, otherwise the property could not be used. Mr. Whitacre said the request does match the area and that Mr. Skowbo was correct that it takes time to get properties ready for occupancy.

Mr. Grisdale reviewed the options available for a motion.

*Ms. Marchant moved that the Board of Zoning Appeals approve variances of the Winchester Zoning Ordinance, Sections 10-3-1, 10-4-1, 10-5-1, 10-6-1 and 10-8-1 pertaining to minimum lot area and width, main building, side yard and corner yard setbacks at 574 North Loudoun Street (Map Number 153-01-G-1) zoned Commercial Industrial (CM-1) District, with the following conditions:*

- a. Only the following uses permitted in the CM-1 district shall be permitted: Convenience Service Establishment (Section 10-1-9), Government Offices (10-1-12), Offices, business and professional (10-1-18), Parking lot (10-1-19), Repair services or business (10-1-25), Off-street parking areas (10-1-36), Extended Stay Lodging (10-2-12);*
- b. Any use permitted in subsection (a) above may be permitted to the degree that three (3) parking spaces are required per Section 18-6 of the Zoning Ordinance;*
- c. The variance applies only the current structure and lot as they are currently situated as of the date of this decision. Any future alteration to the lot dimensions or building footprint shall cause the variances to expire; and,*
- d. The variances will expire if the property ceases to be used for a two year period.*

*The variances are 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. Chairman Pifer asked for a roll call vote.*

*Vice Chairman Crawford – no*

*Ms. Marchant – yes*

*Mr. Whitacre – yes*

*Chairman Pifer – yes*

*Chairman Pifer stated the motion passed 3-1.*

**NEW BUSINESS:**

None.

**OLD BUSINESS:**

None.

**ADJOURN:**

With no further business before the Board, the meeting was adjourned at 4:47pm.