BOARD OF ZONING APPEALS
MINUTES

The Winchester Board of Zoning Appeals held its regular meeting on Wednesday, October 8, 2014, at 4:00 p.m. in Council Chambers, Rouss City Hall, 15 N. Cameron Street, Winchester, Virginia.

POINTS OF ORDER:

PRESENT:	Acting Chairman Pifer, Mr. Crawford, Ms. Marchant
ABSENT:	Mr. Lewis
STAFF:	Aaron Grisdale, Nasser Rahimzadeh, Catherine Clayton
VISITORS:	Kelly Henshaw - City Engineer, Don Crigler, Woodward Bousquet, Michael Ranberger

ELECTIONS OF OFFICERS:

Acting Chairman Pifer moved to table the election of officers until such time as the Board has a full complement. Ms. Marchant seconded the motion. Voice vote was taken and the motion passed 3-0.

CONSENT AGENDA:

Approval of Minutes of August 13, 2014.

Acting Chairman Pifer called for corrections or additions to the minutes. Hearing none, he called for a motion. Ms. Marchant moved to approve the minutes as submitted. Mr. Crawford seconded the motion. Voice vote was taken and the motion passed 3-0.

READING OF CORRESPONDENCE:

None.

PUBLIC HEARINGS:

BZA-14-517 Request of DFC Architects, PC, on behalf of the property owner, Long Term Care Properties, LLC, for variances pertaining to an expanded use and structure in the 100-year floodplain pursuant to Sections 14.1-15-3C, D, E, and J and Section 14.1-15-6A of the Winchester Zoning Ordinance, for the property located at 380 Millwood Avenue (Map Number 233-01- -3 - > <01), zoned Medium Density Residential (MR) District with Floodplain (FP) District overlay. The applicant is requesting these variances to obtain relief from required flood proofing and building elevation requirements for a proposed building expansion.

Mr. Grisdale presented the staff report stating that the request before the Board is for five variances of floodplain requirements to allow for a building expansion of the existing nursing home facility. The subject property is encumbered by both the floodway and 100-year floodplain. The portion of the structure that will be expanded is located within the 100-year floodplain. The parcel is currently improved with a nursing home and is considered a legal nonconforming use within the Medium Density Residential District. The property was constructed in 1968, which was then under the City of Winchester's 1960 Zoning Ordinance, which predates the current 1976 Zoning Ordinance. Since 1968,

the property's zoning has changed a few times from the original R-5 (Multiple Family Dwelling District) to the current MR District. Within the applicant's submitted information, it is shown that the property owner is preparing to undergo renovations of the existing structure as well as the proposed building addition. The project is designed to bring existing beds up to current standards for patient care, patient gathering space and handicapped accessibility. The applicant also states within his letter that the improvements will not exceed 50% of the facility's market value and therefore, the project will not qualify as a substantial improvement. Furthermore, the applicant states that the operation will not be adding any additional beds to the lower floor.

Mr. Grisdale reiterated the required findings that the Board must make in order to approve the variance request. Additionally, Mr. Grisdale said that within Article 14.1 – Floodplain Regulations, there are specific factors that the Board of Zoning Appeals must consider for a floodplain variance request:

14.1-18 VARIANCES: FACTORS TO BE CONSIDERED

In passing upon applications for Variances, the Board of Zoning Appeals ("the Board") shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation. No variance shall be granted within the Special Flood Plain District for any proposed development that would cause an increase of more than one foot in the one hundred (100) year flood elevation.
B. The danger that materials may be swept on to other lands or downstream to the injury of others.
C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
E. The importance of the services provided by the proposed facility to the community.
F. The requirements of the facility for a waterfront location.
G. The availability of alternative locations not subject to flooding for the proposed use.
H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
L. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
M. Such other factors which are relevant to the purposes of this ordinance.

In reference to the above three standard variance considerations and the additional evaluation factors from Section 14.1-18 of the Zoning Ordinance, staff does not believe that there is an argument for a demonstrable hardship in this instance. While the applicant states that there will be no net increase in the number of beds on the bottom floor, there will be an expansion of residential living space into the 100-year floodplain, without meeting the full flood-proofing requirements. A variance should be approved only when the "strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property." An argument can be made that the owner is presently enjoying reasonable use of the property.

The City of Winchester participates in the National Flood Insurance Program, and the purpose of the floodplain ordinance is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base. It is important for the City to ensure that we are following the established rules and provisions of our ordinance to ensure that the City will be able to continue to participate in the NFIP, which allows for City residents to obtain flood insurance at more manageable rates.

Mr. Grisdale reviewed the comments from the City Engineer/Floodplain Administrator as follows:
I (Ms. Kelly Henshaw) have reviewed the request of DFC Architects on behalf of Evergreen Health & Rehab to be granted variances for five sections of the Zoning Ordinance, all pertaining to improvements that are required when constructing a new building or an addition in the City's flood zone. Those sections are as follows:

14.1-15-3C – New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
14.1-15-3D – New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
14.1-15-3E – Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
14.1-15-3J – Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
14.1-15-6A - New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than 1 foot above the base flood elevation.

Mr. Grisdale summarized her comments on the request as follows:

Ordinance sections 14.1-15-3C, D and E all pertain to the materials and equipment used to construct the structure and the need for those materials and equipment to be resistant to flood damage. These standards apply to any development in a flood zone and therefore, are not specific to this property. Furthermore, use of materials and equipment that are not flood resistant put the existing and new structures at higher risk for flood damage, which directly conflict with the ordinance's purpose of preventing additional threats to public health, safety and welfare.

Ordinance section 14.1-15-3J speaks to the extension of a non-conforming structure. The definition for "Development" cited in Section 14.1-7-4 of the Zoning Ordinance is "any man-made

change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment and materials." Since the project will entail both excavation of land in the flood zone and a building addition, it is considered development and must meet the standards set forth in the ordinance.

Ordinance section 14.1-15-6A speaks to the need for residential projects to be constructed with the lowest floor raised at least 1 foot above the base flood elevation. The base flood elevation (BFE) at this location is 674.8 and the location of the new addition places the bottom floor around 671. In the event of the 1% annual chance flood, there could be almost 4 feet of water on the bottom floor of the building. In this case, though the zoning or use of the facility is not specifically residential, the applicant has stated that the space in the new addition will be patient rooms and that patients will be living there. Building residential space with a bottom floor significantly below the BFE creates a distinct threat to public safety.

While we appreciate and acknowledge the services that Evergreen provides to the community, our flood protection ordinance is intended to help protect the health, safety, welfare and property of our local citizens. Any building that is permitted below the BFE faces increased risk of damage from floods, and the current property owner, any future property owner and the community are subject to all the costs, inconvenience, danger and suffering that those increased flood damages may bring.

The property owner has implied that their justification for the variance request is that the structure is older than the ordinance. Unfortunately, the zoning ordinance does not specifically exempt properties and structures that were constructed before its existence. The purpose of the flood ordinance is to reduce flood risk by regulating new and existing structures that lie within the boundaries of the 1% annual chance flood zone.

Mr. Grisdale concluded his presentation by stating that staff does not believe that they have met the threshold for granting of variances here and would recommend denial of the request. Additionally, staff has received no letters of support or opposition to this application and that he is available for questions as is Kelly Henshaw, Floodplain Administrator.

Acting Chairman Pifer called for questions from the Board.

Mr. Crawford stated that there seems to be some disagreement between what the applicant is saying about raising the level of the addition and the City Engineer. If the addition is raised to a point where it would satisfy the City's engineering requirements would it then be an acceptable use within the floodplain or would it still be encumbered by some type of issues around insurance for the rest of the City's residences. Mr. Grisdale said that with this specific request, there is basically a building addition coming out in to the 100-year floodplain. He also said that he believes there are some building elevations included. Mr. Crawford said that he does not remember seeing anything that shows side views but the existing "bump-out" comes out and then in another 20 feet or so, the land rises about a foot, then it goes another 10 feet maybe to a cement drainage ditch and it goes another 10 feet maybe after that and then it rises sharply up to Millwood. Mr. Grisdale said that in the area where the applicant is proposing to build the addition, the base flood elevation is about 4 feet above where the ground level is so there will be about 4 feet of living space that, during a 1% chance flood event, could be potentially impacted by those flood waters and could potentially impact other properties downstream as well. We do not have any hydrolysis analysis to show that there would not be any negative impacts for the properties down the floodway.

Acting Chairman Pifer Opened the Public Hearing

Don Crigler, DFC Architects, representative for the applicant, was sworn in by Mr. Crawford. He stated that most of the plans before the Board have been prepared by his office. He then said that he would like to address Mr. Crawford's question stating that the addition that is proposed is a two-story addition and the existing building is also a two-story building with a lower level and an upper level. To be able to accommodate the residents of the existing lower level, the new floor levels need to remain at the same elevation so only 50% of the addition is in question, which is the lower level. Most of the lower floor of this building is within the floodplain currently and it was put there prior to the flood maps being drawn. He also commented that this site was also a health care facility during the civil war. As Mr. Grisdale stated, the facility was originally built in Shawnee Springs in 1968, prior to the flood maps being done. The facility was in compliance with the current zoning at the time, up until 1999 when the property was rezoned to the MR District, now it is a noncompliant use. We also have a PUD application with the Planning Commission to put a PUD in place to make it a compliant use because based on the rezoning from 1990, we cannot expand this facility either so these two elements are going concurrently. He said that the facility was built 46-48 years ago and health care standards have changed quite a bit in 46 years. The current rooms in this facility are substandard by today's standards. The current bathrooms have bi-fold doors and are not ADA compliant. In order to expand the size of the bathrooms, we have to take away from the space in the rooms so to comply with that, we have chosen to widen each of the rooms. Once you widen the rooms, we need 3,000sf more on that floor to be able to accommodate wider rooms and accommodate the patients. The two wings in question are the long term care wing and the rehabilitation wing which require more medical equipment next to the beds to maintain these patients. It is impossible to comply with the ADA standards without widening the rooms.

Ms. Marchant said that she understands that they need to widen the rooms but they could reduce the number of rooms so it is not impossible. Mr. Crigler responded that the number of rooms is licensed by the state and he believes that Evergreen is the only licensed facility within City limits so you are basically taking away healthcare beds. If they do not maintain that number of rooms, the state basically takes them back. He further stated that they are not adding any additional beds or additional staff and that the current patients and staff in the facility are already below the floodplain elevation. One other point is that the current facility is not for residential use. The building code, which the Zoning Administrator and the Floodplain Administrator do not have knowledge of, says that residential uses are R1 through R4 and R5 is single family. This is an I use group, Institution, and it is mandated by the state to have evacuation plans, to have 24-hour staff coverage, and be able to evacuate all residents prior to any disaster, so that is a major difference between having residential folks on that floor unattended, sleeping at night, when we have 24-hour staff coverage in the facility.

Mr. Crigler then said that he would like to briefly go through some of the items for the exception. He first said that staff members are doing what they are charged to do, that is, to enforce the code and the BZA is here because not every time that we write a code does it fit every situation and circumstance.

Item A – the proposed construction is not proposed to be flood-proof and therefore will not impact the flood elevation. Basically, the current facility is not designed to be flood-proof and it never was. If flooding occurs, flood waters will come in to the facility but the current owners have flood insurance that is maintained. They recognize that by adding on a small portion of square footage, that flood insurance is probably going to go up even though no new people are involved. He reiterated the use group and the 24-hour staff supervision.

Item B - the proposed construction is reinforced brick and block construction which will withstand flood conditions at the elevations shown on the flood map and will not have any debris washing downstream so this is one reason to grant a variance.

Item C – the water and sewer system will be sealed and resist penetration of flood waters.

Item D – susceptibility of the proposed facility – as I stated earlier, the owner of the facility has private flood insurance and will maintain that. They are not looking to get any breaks with the City for cheaper flood insurance.

Item E – the overriding reason for this request for the variance is that Evergreen is the one facility in the City that provides nursing home care to 176 patients. They accept Medicare and Medicaid and the choices are to either leave the rooms as they are because if we expand the bathrooms, then we lose space for patients in the rooms. As the population ages, those beds are going to become more and more important as you are all aware of the demographics of the baby boom and the care of the patients happens every day, not just part of the time.

Item F – this is not applicable as we are not requesting a waterfront location.

Item G – there are no alternate options on site to accommodate this because of the original construction. To run a nursing home you have to have it all on one level, at least each wing, and you can only put a certain number of beds per wing so all we are trying to do is maintain that as well as accommodate the care that is needed on a day-to-day basis. The expansion represents a minimal increase in total square footage of the facility.

Item H – the current use has been in existence for the last 46 years and nothing is proposed to be changed. The beds that are in question, if we expand in place and we lose a certain number, the state takes those back and then you have to find another provider to provide those beds at a different location, at the new cost for beds.

Item I - the minor expansion proposed should not have a negative impact on the Comprehensive Plan. This facility has been there for 46 years and it fits in with the residential character of the neighborhood. The additions fit in with that as well.

Item J – emergency access to the site is on the upper parking lot level and there is access up there and they are currently looking to ensure that they can evacuate people from that area. They do emergency drills on a recurring basis to evacuate patients so that is entirely different than putting a residential community at this location.

Items K and L – these are not applicable.

Item M – once again, the proposed addition will not add any additional patients or staff to the current population at the site. Mr. Crigler said that by granting the request, the Board is not putting any additional people at risk. This is simply to provide better care to the existing patient population and not an increase simply to improve financial returns to the facility. The emergency access is good because we have 24-hour staff on site that can provide evacuation ahead of time much quicker than even the fire situation because you have some warning in terms of flooding.

Mr. Crigler closed by stating that the proposed improvements, coupled with all previous improvements, are only 37% of the current value of the facility. He said that they request that the Board grant the variance based upon all of the above items and based upon the particular use being an essential service to the community. He thanked the Board and said that he is available for questions.

Acting Chairman Pifer called for questions from the Board.

Mr. Crawford asked about the current cement drainage ditch in relationship to the expansion that is shown coming out from the dayroom. Mr. Crigler advised that it will be moved. Mr. Crawford then indicated that one portion of the addition is one level and said that as the land begins to rise, the

applicant is looking at having to burrow in to the bank on the far end. Mr. Crigler said yes but just slightly for the drainage ditch. He added that there will be a slight regrading process. Mr. Crawford said that he sees two areas that are about one foot rise each and he asked what Mr. Crigler meant when he said regrading. Mr. Crawford questioned if the regrading would extend out over the two land rises and if the addition would stay level. Mr. Crigler responded yes because they have to be able to move patients back and forth.

Acting Chairman Pifer then reiterated that Mr. Crigler mentioned that there is no other place on the property to build the addition and asked why the applicant could not build it off of the west side of the deck to avoid the 100-year floodplain. Mr. Crigler responded that it would still be in the floodway and having to build in a different location would be the worst situation. Acting Chairman Pifer asked what is meant by "worst situation." Mr. Crigler responded that the only way to avoid it would be to build everything on the second floor and once you get about 50 beds on a floor, it becomes unmanageable in terms of the staffing. The current nursing wings are at the maximum number of patients to staffing levels and so you do not want to add any more.

Ms. Marchant asked if the addition is just the lower floor to which Mr. Crigler said no that they will be matching the second floor in the addition to the existing second floor. He also said that really the second floor is not in question rather it is only the 3,000sf on the lower level. Ms. Marchant said that if Mr. Crigler does not get this variance, then they cannot do the second floor to which Mr. Crigler said that is correct.

Acting Chairman Pifer called for others wishing to speak.

Woodward Bousquet, 17 E. Leicester Street, was sworn in by Mr. Crawford. He said that he teaches environmental studies at Shenandoah University but that he is speaking here today as an individual citizen. He then said that he is speaking in opposition to the applicant's request. He complimented the work that has been done over the years at Evergreen. He said that looking at the Comprehensive Plan and looking at the Floodplain Ordinances, there are some benefits to the Floodplain Ordinances that extend beyond flood control that is lost when additional encroachments are allowed. He said that he is specifically speaking about water quality. When paving over some surface area, there is no pervious surface to soak up the rain water which is a flood control concern. That does not allow the vegetation and micro-organisms on that surface to help reduce some of the water pollutants including sediment that we have in the City so protecting the flood plain protects those surfaces. He said that he is disappointed not to see any bio-retention swales or any other low-impact development structures in the plan or on the site. He said that there are better ways to handle the runoff, especially when there is more paving of the floodplain, than building a concrete channel. He said that is old technology and there needs to be something better done. He added that he appreciates the work of the City Engineer and the Planning staff with their analysis about the proposed structure not meeting the standards of the Ordinances. He then said that it is an important facility to have in our City but that it is in the wrong place to allow expansion. So the concerns about water quality and the increasing impervious surfaces and the loss of flood control surfaces that pervious surface provides should be given serious consideration and he urges the Board to deny the request.

Michael Ranberger, owner of Evergreen, was sworn in by Mr. Crawford. He said that he appreciates the concerns of Mr. Bousquet and he said that taking care of the residents of Winchester is an honor and that he is grateful to have the opportunity to do that. He said that they have done a lot over the years since they have acquired the facility to enhance the care that is delivered. He added that there are all

types of health care delivery throughout the State of Virginia, some good and some exceptional. He said that they have done nothing but try to improve the facility and the care to the residents. Long term care is a huge part of the continuum of care. He said that they have tried to improve the facility and although they have a concrete slab impervious parking lot up top and when the renovation in the rear was done, they installed a significant amount of pervious pavers in. He said that they have improved the watershed and that he does understand that the facility is in the 100-year floodplain and that he respects the job of City staff; however, he said that he has the responsibility of the residents that are at the facility every day. He also said that he understands flooding and is sensitive to it; however, he also said that they are prepared. He presented various pictures of the facility to the Board. He also said that they are trying to do what is right by their residents to improve their quality of life and asked the Board to allow them to finish. He said that he is grateful that the Board is here and asked the Board to allow them to finish what is their responsibility. He closed by stating that he requests the Board to allow them to proceed with the project.

Acting Chairman Pifer Closed the Public Hearing

Acting Chairman Pifer called for questions and discussion from the Board.

Mr. Crawford asked Mr. Grisdale if this project is to go forward, what impact would it have on flood insurance policies within the City. Mr. Grisdale said that he would defer to Kelly Henshaw, Floodplain Administrator, for response to that question. Ms. Henshaw said that insurance policies City-wide would not be affected, just the insurance policy of this particular property.

Mr. Grisdale said that he would like to interject with a procedural issue. He advised that the Board does have three (3) members today out of the five (5) on the Board so they do have a quorum. For the bylaws, any favorable motion would have to have all three (3) members vote in favor of that motion. Failure to do so or any other motion would mean a negative vote against the variance.

Acting Chairman Pifer said that he appreciates what they have done to the facility, the landscaping, and trying to make it a better place for the residents and the City of Winchester but voting to allow this in the 100-year floodplain is not a good proposal. There could be other proposals whether it is cost efficient or not, he said that he thinks there are other ways to solve the issue.

Mr. Crawford said that he would hate to go against the advice of staff but that he is slightly in favor of the proposal. It is just on the edge of the 100-year floodplain and if there is a flood, the new addition would be minor compared to the rest of the place which would be under water. He added that he wishes there would be ways to raise it up higher and that he understands what is being said about the slope with the doors and it becomes a difficulty at that point. As far as a variance, he is slightly in favor but this is something that the Board may want to table until the full complement of the Board is in attendance.

Ms. Marchant said that she hates that it does not meet some of the requirements according to the City in the recommendation even though it is a small section that is going in to that 100-year floodplain. She further said that she understands that the expansion of the rooms is necessary but questioned whether it is necessary to have 25 rooms versus 23 rooms. She said that she is leaning toward no.

Acting Chairman Pifer called for a motion.

Ms. Marchant moved to table BZA-14-517 until the November 12, 2014, meeting or until the Board has at least four (4) members. Mr. Crawford seconded the motion. Roll call vote was taken and the motion passed 3-0.

BZA-14-569 Request of Habitat for Humanity of Winchester-Frederick County, for variances pertaining to required lot area, front yard setback, side yard setback, rear yard setback, corner side yard setback, front porch encroachment, and amount of off-street parking requirement pursuant to Sections 5.1-3-1, 5.1-5-1, 5.1-6-1, 5.1-6-2.1, 5.1-8.1, 18-9-2.1, and 18-6-5.1 of the Winchester Zoning Ordinance, respectively, for the property located at 319-321 South Kent Street (Map Number 193-01-R-19 - > <01) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay. The applicant is seeking relief of the aforementioned dimensional and parking requirements in order to construct two (2) single family homes.

Mr. Grisdale presented the staff report stating that the applicant is seeking relief of the aforementioned dimensional and parking requirements in order to construct two (2) single family homes. The request before the Board of Zoning Appeals is associated with a plan to construct two single family dwellings on a vacant lot. The previous structure on the property was demolished in response of spot blight efforts in late 2010. This property has been the subject of the Board of Zoning Appeals in December 10, 2008. At that time DFC Architects presented a proposal to the Board to construct a two-family dwelling on the property. The Board unanimously granted the variances necessary for construction, including minimum lot area, minimum lot width, main building setback, side yard setback, corner side yard setback, minimum off-street parking and yard encroachments. The Board did not impose a time restriction to this variance approval and therefore the approval is still valid should the property owner choose to pursue this option. Additionally in January 2013, the Board of Zoning Appeals heard a request, similar to the present case, to allow for two single family dwellings to be constructed on the property. This approval was granted and was conditioned on receiving BAR approval for the designs, the project being complete within 2 years, approval was for only the general plans as submitted, and the voiding of the previous variance should the property owner follow through with the two family dwelling construction. To date this plan for two dwelling units has not been completed.

The applicant has developed an alternate design proposal, which includes the construction of two individual single family homes on the lot, with the lot to be subdivided in the future prior to construction. The applicant has submitted planned drawings, dated December 3, 2012, in which the proposed layout is detailed. The applicant is requesting variance in the following table:

Variance	Required by Ordinance	Requested by Applicant
§5.1-3-1 – Required Lot Area	3,500 square feet	Lots sized approximately 1640 SF and 1470 SF
§5.1-5-1 – Required Front Setback	20 feet	4.5 feet
§5.1-6-1.1 – Required Side Yard	4 feet	3 feet
§5.1-6-2.1 – Required Corner Side Yard	15 feet	7.79 feet
§5.1-8-1 – Required Rear Yard	25 feet	22.5 feet
§18-9-2.1 – Front Porch Encroachment	Limit 5' encroachment if not over 3' in height; maximum of ½ required yard encroachment	Relief of ½ required yard encroachment.
§18-6-5.1 – Off-Street Parking	1 space per dwelling (2 total)	0 spaces off-street

Off-street parking is required on a basis of 1 space per single family dwelling. In order to maintain the streetscape layout as approved previously by the Board of Architectural Review, the houses need to be up close to the street, and will not allow for front driveways coming off Cecil Street. The other alternative would be to provide for parking spaces off of South Kent Street. After discussions between the applicant, Planning Director, and Zoning Administrator, it was recommended that the applicant not pursue this parking option off of South Kent Street, due to the higher traffic volume and the dangerous situation of having vehicles back out directly onto this higher traffic street. The applicant appears to be asking for the minimum necessary variances needed to accommodate their request and enjoy reasonable use of the property. The front and corner side setbacks are proposed to be closer to the standard than many of the existing residential units in the same vicinity and zoning district. The rear yard setback is within 10% of the full required setback and the request is for the amount that could be administratively modified by the Zoning Administrator. With regards to lot area, there are numerous properties within the 300 block of South Kent Street that are within the same proportion of lot size to number of dwelling units. Each of 301-303, 305-307, 309-311, and 311 ½ South Kent Street has approximately 1000 square feet or less per dwelling unit. The applicant appears to have met all three (3) criteria for granting the variances and staff recommends that the Board grant the requested variances with conditions imposed. He concluded by stating that he is available for questions.

Acting Chairman Pifer called for questions from the Board.

Mr. Crawford asked if there are other properties in the area that also lack the required setbacks to which Mr. Grisdale responded that there are quite a few houses in the neighborhood that are deficient of the 20-foot setback, many benefit from setback averaging. Mr. Crawford then asked Mr. Grisdale, from his observations, are many of the other properties within 5-feet of the front setback. Mr. Grisdale said that they are fairly close but that he would be hesitant to say what the distance is but that they are closer.

Acting Chairman Pifer Opened the Public Hearing

Acting Chairman Pifer Closed the Public Hearing

Acting Chairman Pifer called for discussion from the Board.

Mr. Crawford said, like everything in the Historic District, it is closer than it should be and it is chopped up, moved around but it will generally make an improvement to the neighborhood. As such, he said that he cannot be against it.

Hearing no other discussion, Acting Chairman Pifer called for a motion.

Acting Chairman Pifer moved to grant variances to Habitat For Humanity Of Winchester-Frederick County, for variances pertaining to required lot area, front yard setback, side yard setback, rear yard setback, corner side yard setback, front porch encroachment, and amount of off-street parking requirement pursuant to Sections 5.1-3-1, 5.1-5-1, 5.1-6-1, 5.1-6-2.1, 5.1-8.1, 18-9-2.1, and 18-6-5.1 of the Winchester Zoning Ordinance, respectively, for the property located at 319-321 South Kent Street (Map Number 193-01-R-19 - > <01) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay, with the following conditions:

a. The variance only pertains to the general plans included within the proposal;

b. *The construction of the dwellings to be completed within two years of this date of approval;*
c. *Approval is contingent upon receiving a certificate of appropriateness through the Board of Architectural Review for the proposed single-family dwellings, and completion of a minor subdivision with the Planning Department; and,*
d. *The December 10, 2008, and January 9, 2013, BZA approvals shall become null and void when/if the applicant follows through with the submitted proposal for construction of two single family dwellings in place of a two-family dwelling structure.*

Ms. Marchant seconded the motion. Roll call vote was taken and the motion passed 3-0.

NEW BUSINESS:

Mr. Grisdale advised the Board that they have received the meeting schedule for 2015. He asked the Board to review and adopt, if appropriate. *Acting Chairman Pifer called for a motion to adopt. Mr. Crawford moved to adopt the 2015 Board of Zoning Appeals Meeting Calendar. Ms. Marchant seconded the motion. Roll call vote was taken and the motion passed 3-0.*

Mr. Grisdale then made the announcement that the City will be doing another Insight Academy. It is a program that the City puts on to help educate citizens, Board members, and anyone who is interested in learning more about the operations of the City. He said that it is a several week program led by Amy Simmons, Marketing and Public Information Officer, which gives exposure to each of the different City departments and helps people understand how their local government works. It meets once a week in the evenings and if anyone is interested, there is some information on the City website and it would start in January.

Lastly, in terms of packet distribution, what we do with some of our other Boards and Commissions is to send the packets electronically to each of the members and then give them a hard copy at the meeting. He would like to have the Board's thoughts on this and, if it is something that the Board is comfortable with, we would begin this procedure with the information for the next Board meeting. Mr. Grisdale said that staff will start this and see how it goes. He did ask that each member verify their email address so that we have the correct information.

OLD BUSINESS:

None.

ADJOURN:

With no further business before the Board, the meeting adjourned at 4:56 p.m.