



**TOWN OF FRONT ROYAL, VIRGINIA
BOARD OF ZONING APPEALS MEETING**

Tuesday, February 21, 2023 @ 7:00 PM
Front Royal Town Hall, 2nd Floor East Conference Room

AGENDA

1. Call to Order
2. Roll Call – Determination of Quorum
3. Election of Officers
4. Approval of Minutes
 - December 20, 2023 (*attached*)
5. Parliamentary Procedure – *Town Attorney, George Sonnett*
6. Other
 - By-Laws
 - 2022 Board of Zoning Appeals Annual Report
7. Adjournment

This meeting may be viewed in its entirety by accessing the video of the same date online via the Town's website at www.frontroyalva.com.

The Board of Zoning Appeals regular meeting of the Town of Front Royal, Virginia was held on December 20, 2022, at 7 pm.

CALL TO ORDER:

Chairman McCarthy called the Board of Zoning Appeals, December 20, 2022, meeting to order at 7:00 pm. She asked Ms. Potter for a roll call.

ROLL CALL – DETERMINATION OF QUORUM

Present: Amanda McCarthy, Chairman
Michael Williams, Vice Chairman
Cody Taylor
Christine Erin

Absent: Andi Robinson

Staff: Lauren Kopishke, Director of Planning & Zoning/Zoning Administrator
John Ware, Deputy Zoning Administrator
George Sonnett, Town Attorney
Connie L Potter, Executive Assistant / Clerk for the Board of Zoning Appeals

APPROVAL OF MINUTES

- November 15, 2022 Meeting

Vice Chairman Williams: There was one spot you had quoted Mr. Ware as saying that the lots in question were currently non-conforming but if the variance was granted it would still be conforming.

Ms. Potter: I have corrected that. The Chairman brought that to my attention. There was also another correction that I listed you as the Chairman vs. Vice Chairman.

Vice Chairman Williams: That has been corrected in the minutes?

Ms. Potter: Yes sir.

Vice Chairman Williams moved, seconded by Ms. Erin to approve the meeting minutes.

Chairman McCarthy: Any discussion? All vote in favor say aye, all those opposed.

VOTE: Yes – Erin, Williams, McCarthy, Taylor
No – N/A
Absent – Robinson
Abstain – N/A

VOICE VOTE

Chairman Amanda McCarthy: Motion carries.

PUBLIC HEARING

- **Variance Application 2200398** submitted by Property Connection LLC for multiple variances from the zoning regulations of Town Code Chapter 175. The purpose of the variances is to subdivide a single parcel, upon which two existing detached single-family dwellings are located into two parcels. Each dwelling will be located on its own individual lot. The property is zoned C-1 (Community Business District) and is identified as Tax Map #20A4-4-3 with the two dwellings located thereon addressed as 225 East 7th Street and 631 Kibler Street, Front Royal, VA.

The following variances are requested from the requirements of the Zoning Ordinance C-1 Zoning District, Chapter 175-38:

- i. The proposed lot upon which the dwelling identified as 225 E 7th Street will be granted a 3,460 square foot variance from the minimum 7,500 square foot lot area requirement of Town Code Chapter 175-40.A.2.
- ii. A 15.5-foot variance from the minimum 90-foot lot width for corner lots required by Town Code Chapter 175-40.D.2.
- iii. Said dwelling be granted a 0.3-foot variance from the minimum 15-foot corner lot side yard setback requirement of Town Code Chapter 175-42.A.4.
- iv. Said dwelling be granted a 6.2-foot variance from the minimum 15-foot rear yard setback requirement of Town Code Chapter 175-42.A.3.
- v. Said dwelling be granted a 5.5-foot variance from the minimum 15-foot front porch to the front property line requirements of Town Code Chapter 175-3.
- vi. Said dwelling be granted a 13.2-foot variance from the minimum 15-foot rear porch to the rear property line requirement of Town Code Chapter 175-3.

Chairman Amanda McCarthy: We are here to continue with a previous discussed matter. The public hearing has been closed but it is a continuation for discussion for the variance application 2200398. I will go ahead and ask staff to review this application please.

John Ware: The application is for variance application # 2200398 submitted by Property Connection LLC for multiple variances from the zoning regulations of Town Code Chapter 175. We had the previous meeting in October which was continued into November which was to the Planning Commission early part of November with recommendations and the meeting on November 15th was continued to tonight. Part of the discussion on the Planning Commission recommendation in their November meeting, if you look at your package they did submit a recommendation from a Planning Commission comment stated: From a planning standpoint if one or more variances were to be granted the Planning Commission observes that the creation of

a property line of equal distance between the two existing structures would clarify a fundamental principle of land use.

(Showing PowerPoint)

One November 15th the applicant submitted an adjusted plat with supporting documentation. Part of your, on the variances if we look at the screen with the new. The current property runs approximately there through the edge of the building on this lot and their proposing to move the property line up between the two existing structures which is the bold dark line on your plat. So, with the creation of the recommendation from the Planning Commission the new plat has the property line between the house at 225 East 7th Street and the house on Kibler Street. Its 5' 3" off of each structure. With the boundary line adjustment lot 4, which is the Kibler Street address, that structure and lot would be conforming and the lot on east 7th street 225 would still remain nonconforming with a nonconforming structure. Any questions?

Vice Chairman Michael Williams: So instead of, unless I misunderstood, so instead of two nonconforming lots you would only have one.

John Ware: Correct.

Vice Chairman Michael Williams: Or instead of three you would only have two.

John Ware: You have a vacant lot, parcel 5 to the south of that. So that is the third lot so you have two, lot 3 and lot 4 currently are nonconforming lots with a nonconforming structure on lot 3, a portion of a structure on lot 4A and a portion of the structure is on lot 4. So those two lots, 3 and 4 are nonconforming lots with nonconforming structures. Adjusting the property line equal distance between the two structures would make lot 4 conforming with the conforming structure but lot 3 would remain nonconforming with a nonconforming structure.

Vice Chairman Michael Williams: Thank you.

John Ware: Any other questions? Also, within your packets that was submitted by the applicant was some material I hope that you reviewed in the meantime since the last meeting with additional information and the plats they submitted that we have there for you to review.

Chairman Amanda McCarthy: I do believe the last time they were here we asked them to check in with the sewer company. Did we have any results from that?

John Ware: From the Public Works standpoint, yes we did, I want to bring to your attention, in part of your package, for the variance to be granted Town Code 175-139.B.1 authorizes the Board of Zoning Appeals with the ability to issue variances as stipulated below:

1. When a property owner can show that his property was acquired in good faith and where, by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the chapter, or where, by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately

adjacent thereto, the strict application of the terms of the chapter would effectively prohibit or unreasonably restrict the use of the property.

So, determination for the variance is on the lot. We did look into the water and sewer question. 134-38.D. "Separate buildings shall be provided with separate water meters at the property line. The connection of more than one building to the same meter shall not be allowed except by special permission." That's from Town Council. If you have that information you can read that too. But the variances are for the lot.

Vice Chairman Michael Williams: I could be wrong, please correct me if I am. Is that even relevant to what we're supposed to be deciding.

Chairman Amanda McCarthy: We had asked her previously to provide it as a possible hardship, but this proves that its not a hardship. So, it does help us in determining our decision.

Vice Chairman Michael Williams: I don't know that I agree. Isn't the determination of the hardship based upon the survey identifying that it was two different lots instead of one and nothing to do with the water. The water is a separate issue and really has nothing to do with what we're trying to decide I think.

Cody Taylor: We asked because she claimed a hardship stating that it would be impossible to utilize both properties correctly without separating the water and sewer service.

Chairman Amanda McCarthy: You can only do that if the properties are separate. This here states that they have separate meters.

Code Taylor: Also, under 134.A.B "Permits for the use of water will not be granted to a block of stores, shops, tenements or rooms occupied by different parties or families using water through the same meter unless the application shall be made by the landlord or agent of such premises and all rents and bills for water are to be charged and collected from him or his agent." So, it can be done as long as their renting the properties. It can't be done if they want to sell the properties separately. But if they were to own them and rent them out then the common landlord could. That's why this is kind of important but it's determining the hardship. How much of a hardship is it really.

John Ware: The variance is for the lot that's under your consideration.

Vice Chairman Michael Williams: Correct.

Code Taylor: But in order for us to grant it it must be a hardship legally by State Code, not the Town Code. But state code supersedes town code. So, there must be a hardship shown by preponderance of evidence by the applicant.

Vice Chairman Michael Williams: I'm a little frustrated that and disappointed that our Town Attorney is not here tonight. Our Town Attorney is here, what's going on man. I don't know what our Town Attorney's rule is with respect to these proceedings, so I apologize for not knowing that if it is not his role.

Town Attorney, George Sonnett: I believe it's in the minutes that you just approved.

Lauren Kopishke: George's role here, his role here is to support staff members. The BZA would need to have separate legal counsel.

Vice Chairman Michael Williams: Can we open the floor to the applicant.

John Ware: Do you have any more questions.

Amanda McCarthy: Do you guys have any more questions.

Lauren Kopishke: Do you have questions for the applicant.

Vice Chairman Michael Williams: I'd like to give the applicant a chance to speak which I think they want to do. They have a right to do that right now don't they?

Andrew Hill: Good Evening members of the Board. My name is Andrew Hill. I'm an attorney here on behalf of the applicant. Emily Minick, the manager for the applicant is also here as well. I believe you all have in your packet and those of you who were here last time a letter that I had drafted together with some supporting documentation in support of the applicant's position here. I understand the Board has considered this matter at length already. For those of you who were not present at the last meeting as you can see from the screen up there this matter really concerns the three (3) lots that are located at the corner of East 7th Street and Kibler Street. Those are lots 3, 4, and 5 of the C.D. Binns Subdivision which was created and approved by the Town Planning Commission on June 3, 1947. As you can see and as Town staff has already identified there are two (2) houses currently situated so that basically the two (2) lots that are issue are the two (2) northern ones. The southern most lot which is shown there but is not highlighted and bold is not an issue here. That is a vacant lot to which no change is being requested. So really the northern two (2) which are lots 3 and 4 are the important ones for these considerations. Thank you.

So, we have here obviously the plat from Mr. Brogan which was prepared in September of this year shows the current location of the line which is that dotted line from the bottom with the lot line to be vacated in parenthesis off to the left. So, that dotted line is the current location of the line between lots 3 and 4. I think everyone understands why we're here. The agenda actually is somewhat inaccurate because it states that this is a request by the property owner to subdivide a single parcel upon which two (2) dwellings are located into two (2) parcels. The agenda also references that this only has one (1) tax map number. In reality there have been these three (3) parcels lots 3, 4 and 5 here for about 75 years since 1947 when these were approved. Each of them also has its own tax map number. If the variance is granted by this Board there would continue to be three (3) lots just with lots 3 and 4 being adjusted to each contain one (1) dwelling instead of the current situation where lots 3 essentially contains 1-1/2 dwellings and lot 3 contains the other half of the second dwelling. In reviewing the discussion that the Board had at the last meeting looks like there was discussion that this could be a self-created hardship on the part of my client which would in essence defeat its application. Our contention is that this is not a self-created hardship. My client purchased these lots earlier this year. Did not create the boundary lines in this location. Again, those had been that way since 1947. I don't know how many owners ago, but a lot. So, while my client was unaware of the precise location of the

boundary line between these two (2) properties it did not create the situation simply by not having a survey done prior to its purchase of these lots. I would contend that the lack of a survey does not make it a self-created hardship in that regard. That hardship again had already existed for decades before my client entered the picture including under the prior owner and several prior owners before that. The problem really has existed since the second house, the one that straddles the property line numbered as 631 Kibler Street was built straddling that property line. So for those reasons I would argue that I don't think it can reasonably be construed to be a self-inflicted hardship under these circumstances. On the contrary my client is pursuing this attempt in good faith to take a situation that is already problematic and already nonconforming through no fault of my client and make it better. The lots, as Town staff has already noted, the lots are already nonconforming and one of them, lot 3 would continue to be so if the Board approves my clients request. But lot 4 would be brought into compliance in terms of essentially not having the property line run right through the middle of the house. So, my client is attempting to make these lots as nonconforming as possible by giving the two (2) dwellings their own lots which as the Planning Commission noted would satisfy a fundamental principle of land use. Unlike with a lot of other variance requests that may come before you, we're not requesting a new nonconforming use, only a change to an existing nonconforming use to make them less nonconforming. The letter that I had sent and my client had provided at the last meeting highlighted three (3) very similar variances granted by the BZA just in the past three (3) years since 2019. Those three cases were as follows:

1. In case number 1672-2019, originally there were three (3) houses on two (2) lots and the lot line for those two (2) lots originally went right through the middle of each house and the Board at that time approved a re-subdivision so that each house had its own lot and all the lot lines ended up facing the right direction.
2. In case number 2235-2020, there originally were two (2) houses on one (1) lot and the Board approved a re-subdivision so that each house had its own lot.
3. In case number 2403-2020, the Board approved a request for each set of industrial buildings to have its own lot when they all had been on one lot previously.

All three (3) of those recent examples resulted in variances, especially the side setback distances from the current ordinance. What was not attached with my letter previously, which I do have copies of in case you would like to review them are the plats for those approved variances if the Board has any interest in reviewing those. From a legal perspective we contend that the Town Code gives this Board the power to grant variances quote "when owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship, provided that the spirit of the chapter shall be observed, and substantial justice done". That's in section 175-139.B. of the Town Code. Both the Town Code and as echoed in state law specifically 15.2-2309.2 of the Code of Virginia outline a series of five (5) factors which have all or shown the variance shall, the state law actually uses the word "shall" be granted. So, number 1.

1. The property must have been acquired in good faith and the hardship must not have been created by the applicant for the reasons articulated previously we contend that is the case here.

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, which again we contend is also the case here. If the Board approves this change there will be no change in the use of these lots only of the location of the boundary. We are not seeking a rezoning of any kind; these properties will remain residential.
3. The condition is not of a general nature. That is the case here again because the problem is specific to this particular property and not to the surrounding areas. As the staff report notes there are topographic constraints present here that are not shared by neighboring properties.
4. The granting of the variance will not result in a use that is otherwise prohibited. Which again is true. The use as I mentioned before, the use of these properties will not change, will remain residential.
5. Finally, that there is no availability of a special exception process or a special use permit which is also true here.

So, we believe that all these requirements in the Town Code and the Code of Virginia are met. The current situation as my client articulated the last time represents an undue hardship for my client. The proposed new line as Town staff noted would be equal distance between the two (2) dwellings which the Planning Commission noted as a positive factor in voting in favor of the approval.

Simply put my client contends that each house needs its own lot and address which will lead to an increase value for them and frankly increase tax revenue for the Town. Its difficult for my client to rent the houses under the present arrangement because in doing so they can't just simply rent one lot to each renter. It's a lot more complicated than that because the property lines are not clear and don't match up with the locations of these houses. As Town staff has already noted and is evident from the agenda materials that you have, the Planning Commission recommended approval upon my client making a change to the plat which was done promptly. To our knowledge nobody has come forward to oppose this variance and we respectfully request that it be approved. My client is also here to speak and to answer any specific questions you would have.

Emily Minick: Good evening, as defined in the Town Code of Front Royal a single-family dwelling is defined as a single-family dwelling unit other than a mobile home or manufactured home designed occupancy by one family and not located on the same lot as another dwelling unit. Prior to purchasing the property, the LLC was aware there were two houses on one lot. However, it was not until after the purchase and a survey was conducted that it was discovered that the lot line separating lot 3 and lot 4 actually ran through the single-family dwelling that faces Kibler Street. In 2011 there was a survey done on the property for a boundary line adjustment on the lots, but the structures were not placed on the survey. It was just a survey of the land. There is no other survey recorded for these properties available besides the plat in 2011. There was no improvement survey prior to the LLC survey. The BZA has the authority to hear and decide appeals, authorize upon appeal in specific cases such variance from the terms of the chapter as will not be contrary to public interest. But the State Code does not define what the

word hardship means in the ordinance. It is up to the Board to examine each applicant's application for a variance request. The LLC is requesting a variance to move the property line between lots 3 and 4. The lot line as it is right now unreasonably restricts the use of the property on Kibler Street. The use of these two properties is single-family dwellings. These dwellings are entirely separate and contain no shared living space. This hardship of restricting the use of said dwelling is not shared generally by other properties in the same zoning district. These two properties as it stands right now with a boundary line going through the house on Kibler Street unreasonably restricts the two properties as it was intended. These two houses should be legally separated on their own separate lots with their own separate legal address. A single-family house needs its own legal address. Currently there is one address for these properties and that address is 225 E. 7th Street. This address incorporates both dwellings. The Town of Front Royal Finance has utilities bills addressed this way and they get their information from the tax office. The tax office has one tax lot for the property that includes both properties. The Commissioner of Revenue has both properties under the same address. The post office has one address for these properties. There is one mailbox. The GIS system does have the house on lot 3 and lot 4 as 631 Kibler Street when you search it but when you click on that actual house the legal address pops up, 225 E. 7th Street because at one point someone had called 911 and they need a physical address which is why this was probably updated. But because the GIS lists this house physically as 631 Kibler Street does not in any update or change what the address of this property legally is, which is 225 E. 7th Street. There is precedent that this Board consider and examine applications for variances under the code. The Board is tasked with examining each applicant and assessing whether a strict application of the chapter would produce undue hardship. And also, regarding the water and sewer if I could direct you to Town Code 134-38 Section D, "separate buildings shall be provided with separate water meters at the property line. The connection on more than one building to the same meter shall not be allowed except by special permission shall include additional buildings, landscaping, irrigation, decorative fountains, fish pools, swimming pools, other multiple living quarters. In granting such permission, Town Manager shall ensure that number 4. The new connection is terminated should the property or building supporting the extra connection be conveyed or leased". Now that being said, yes special permission can be granted for additional water sewer line to go to the house on Kibler Street separating it from the house on 7th. However, the water sewer meter would have to go on the lot line therefore restricting the use of parcel 4 which is buildable. This unreasonably restricts the utilization of not only the two properties sharing the lot line but also the vacant lots located on Kibler Street. I'm happy to answer any questions.

Chairman Amanda McCarthy: Does anybody have any questions?

Cody Taylor: In the beginning you said that before you had the survey you knew the house, both buildings were on the same lot, but you didn't know that the line ran through the middle one. When you knew that both houses were on the same lot what was your initial intention of using that building when you assumed it was all on one lot.

Emily Minnick: I'm sorry, can you repeat that?

Cody Taylor: You thought the first two buildings, the buildings that are there, you thought they were on one lot. What was your initial intent in using those buildings when you thought they were all on one lot.

Emily Minnick: When the application here is for a boundary line adjustment and I'm just here to answer questions about the application as it stands.

Cody Taylor: OK, I guess what I'm getting at is if you thought they were both on the same lot initially and you intended immediately to get the lot line adjusted to divide the two properties then you always knew you were going to need a variance right from the get-go.

Emily Minnick: No, when we found out the line went through the property on Kibler Street that's when the application was submitted to move the line through the two properties.

Chairman Amanda McCarthy: Knowing that they were on one property you were ok with buying it that way.

Cody Taylor: Yes, and you had a use for it, a reasonable use for it knowing that both of them were on one lot.

Emily Minnick: The lot line going through the house as it is unreasonably restricting the use of the house on Kibler Street and that's what the application is about.

Chairman Amanda McCarthy: That's how you said you knew it was when you bought it.

Emily Minnick: But the application is to move the lot line through the house because it goes through the house on Kibler Street. It's not application for a subdivision to divide.

Vice Chairman Michael Williams: Series of questions. When you purchased the lot in September.

Emily Minnick: June.

Vice Chairman Michael Williams: When you purchased the lot in June, did you know that one house and a half was on one lot.

Emily Minnick: No.

Michael Williams: OK, when did that come to your attention?

Emily Minnick: When the survey was conducted.

Vice Chairman Michael Williams: Which was in September.

Emily Minnick: I think August actually.

Vice Chairman Michael Williams: OK.

Christine Erin: You didn't get a survey when you purchased the home.

Emily Minnick: Correct.

Christine Erin: Is there a reason why.

Emily Minnick: There's no particular reason.

Vice Chairman Michael Williams: So, it came to you. I'm going to back up here just to make sure I'm on the right page here. When you purchased the property in June you did not know that a house and a half was on lot 1 and that half a house was on lot 2.

Emily Minnick: Correct.

Vice Chairman Michael Williams: You realized that after the survey was done in August or September and that is why you're stating that there is a hardship not allowing you to do what your LLC wishes to do with the property.

Emily Minnick: Correct.

Vice Chairman Michael Williams: Correct.

Chairman Amanda McCarthy: Any further discussion? Does anybody have a motion?

Vice Chairman Michael Williams: Madam Chairman ***I move that the variance be granted based upon hardship. We can debate whether it was self-induced or not. I choose to believe there is an option for a gray area and I move that we grant the variance.***

Chairman Amanda McCarthy: Is there a second? There is not a second, so the motion has died. Is there a new motion?

Connie Potter: Hold on one second.

Lauren Kopishke: Can they make a new motion?

Town Attorney George Sonnett: Sure.

Lauren Kopishke: OK. Somebody else can make a motion.

Chairman Amanda McCarthy: Can I make a motion?

Lauren Kopishke: Yes, you can make a motion.

Cody Taylor: You don't need to. We're hear to say yes. If we can't say yes then its automatically no. That's the code. That's what we didn't realize last time. But the motion to say yes is not approved therefore there's not enough votes for a yes.

Chairman Amanda McCarthy: So, that's it.

Lauren Kopishke: If you can't make a motion to say yes at this point the application is denied.

Chairman Amanda McCarthy: So, we cannot make a motion to say yes so therefore the application is denied. Any further discussion for that? All those in favor.

Lauren Kopishke: There's no vote. You don't need to do that, there is no vote.

OTHER

Chairman Amanda McCarthy: Is there any other form of business this evening that needs to be discussed.

Lauren Kopishke: Would this body like to have a meeting in February to just go over meeting procedures and look at by-laws?

BZA Members: Yes.

Christine Erin: That was like a second and a third (laughing).

Connie Potter: Did you say February?

Lauren Kopishke: Yes.

Cody Taylor: That might be one where it would be very important to stress that everyone come. I know Andi is sick.

Connie Potter: Every meeting is important. Did you all get the email I sent out with the meeting dates today?

Vice Chairman Michael Williams: Yes Ma'am, thank you!

Lauren Kopishke: At this point there are no applications for January so February. Staff will reach out towards the middle of January to determine who can be available and then will prepare, basically an outline and I will get somebody here that can kind of take you through the steps of parliamentary procedure. I think its good for everybody to have a refresher.

ADJOURNMENT

Chairman Amanda McCarthy: Is there a motion to adjourn?

Vice Chairman Michael Williams: Madam Chairman, *I move that we adjourn, seconded by Christine Erin.*

Chairman Amanda McCarthy: All in favor say aye.

VOTE: Yes – McCarthy, Williams, Taylor, Erin
 No – N/A
 Absent – Robinson
 Abstain – N/A

VOICE VOTE

The meeting adjourned at 7:35 p.m.

Approved by the Board of Zoning Appeals
Date: _____

FRONT ROYAL BOARD OF ZONING APPEALS BY-LAWS

ARTICLE I. MEMBERSHIP

The Board of Zoning Appeals, herein also referred to as the “BZA” or “Board”, shall consist of five (5) members appointed in accordance with §15.2-2308 VA Code Ann, and Section 175-138 of the Town Code.

ARTICLE II. OFFICERS

1. The Board of Zoning Appeals (BZA) shall organize and annually elect a Chairperson, Vice-chairperson, and Secretary. Elections should take place the first meeting held during the calendar year.
2. The Chairperson shall preside at the meetings and hearings of the BZA, and shall decide all points of order and/or procedure, appoint any committees that are found to be needed, and set any desired time limitations for speakers.
3. The Vice-chairperson shall assume the duties of the Chairperson in his or her absence. In the absence of both the Chairperson and Vice-chairperson, and a quorum exists, an acting Chairperson shall be selected by the members present to preside over the meeting.
4. Town Planning & Zoning Staff shall serve as the Secretary of the Board unless otherwise specified by the Board during annual elections. The general duties of the Secretary include the following:
 - a. prepare official correspondence at the direction of the BZA;
 - b. send out required notices;
 - c. keep the minutes and records of the BZA’s proceedings;
 - d. send copies of appeals and applications to the Planning Commission as required;
 - e. maintain other BZA records;
 - f. in response to Writs of Certiorari served upon the BZA, prepare and file with the court, in a timely fashion, certified copies of the record of any BZA decision that has been appealed;
 - g. prepare and file an annual report of the BZA with Town Council;
 - h. notify the circuit court of any vacancies on the BZA; and
 - i. perform other clerical duties as assigned by the Board.

ARTICLE III. MEETINGS, QUORUM, AND VOTING.

1. The regular meeting of the BZA shall be held on the 3rd Tuesday as needed each month. If the BZA is unable to meet on the 3rd Tuesday of the month, the alternative meeting date will be the 4th Tuesday of the month. Each regular meeting shall begin at 7:00 P.M., unless otherwise specified by the Board.
2. Special meetings may be called by the Chairperson provided that at least five (5) days notice of such meeting is given to each member in writing.
3. All meetings shall be open to the public unless a closed meeting is held pursuant to the Virginia Freedom of Information Act §2.2-3700, et seq., Virginia Code Ann.
4. A quorum shall be necessary to conduct any BZA business, other than discussion regarding the next meeting date.
5. A quorum shall consist of three (3) members (i.e., a majority) of the BZA.
6. The concurring vote of three (3) members (a simple majority of the membership) shall be required to:
 - a. grant variances;
 - b. reverse decisions or determinations of the Zoning Administrator;
 - c. amend these By-laws; and
 - d. issuance of a special use or special exception permit, but only if such authority is delegated to the BZA in the future by Town Council.
7. The concurring vote of a majority of all members present and voting, or such other greater number as may be required by the Code of Virginia or the Zoning Ordinance, shall be required to effect all other actions of the Board.
8. A member shall make a disclosure of the member's interest in a specific matter before the BZA when required by law. Any disclosure shall be announced and made part of the record of the BZA prior to a case being heard or as soon as a basis for disclosure is discovered.
9. A member shall be disqualified to act on a specific matter before the BZA when required by law. The reason for disqualification shall be made part of the record of the BZA.
10. A member may be disqualified under any circumstances, which in the opinion of the individual member, would create an appearance of impropriety or unfairness. The decision to be disqualified shall be entered into the record of the BZA, but a member need not state the reasons for disqualification.
11. Any disqualification shall be announced and made part of the record of the BZA prior to a case being heard or as soon as a basis for disqualification is discovered.

12. The order of business at all regular meetings of the BZA may be as follows:
 - a. Call to order.
 - b. Approval of minutes of previous meetings as received, if applicable.
 - c. Business of members of the BZA, if applicable.
 - d. Review of BZA Procedure, if applicable.
 - e. Public Hearing of scheduled, continued, and deferred for decision items, if applicable.
 - f. Unscheduled items, if applicable.
 - g. Adjournment.

ARTICLE IV. DUTIES.

It shall be the duty of the BZA, in accordance with the provisions of §15.2-2309 VA Code Ann., to hear and decide cases involving the following:

1. Variances to the strict application of the requirements of the Zoning Ordinance.
2. Appeals from a decision of the Zoning Administrator, or other administrative officer, in accordance with the provisions of the Zoning Ordinance.
3. Applications for interpretation of the district map where there is any uncertainty as to the location of the district boundary.
4. Issuance of special use permits or special exceptions, as may be delegated to the BZA by Town Council (no such authority has been granted to the BZA by Town Council at this time).

ARTICLE V. APPLICATIONS TO THE BZA.

1. All applications to the BZA for variances and appeals shall be made on forms supplied by the Department of Planning and Zoning. The same shall apply for special use or special exception applications if authority is delegated to the BZA in the future for such matters. All other applications or requests, for which there is no required form, shall be made in writing.
2. All applications shall include all of the information required by the Zoning Ordinance before being scheduled for a public hearing.

ARTICLE VI. PROCESSING OF APPLICATION

1. All applications shall be filed with the Department of Planning and Zoning. The processing and scheduling of applications shall comply with the requirements of the Front Royal Zoning Ordinance and the Code of Virginia.

2. The Secretary of the BZA shall notify the applicants in writing of the date, time, and place of the scheduled public hearing.
3. The Secretary of the BZA shall, in accordance with the Code of Virginia and the Zoning Ordinance, cause to be advertised by publication, in a newspaper of general circulation in the area of the application, the required legal notice of the application.
4. The applicant shall be responsible for fulfilling all applicable notice requirements to abutting and other property owners. Required notices shall be sent by registered or certified mail, with return receipts by the recipient.
5. The Department of Planning & Zoning shall prepare and distribute a staff report and any pertinent information to the BZA at or before the scheduled public hearing.

ARTICLE VII. THE HEARING

The following procedures should be followed when the BZA conducts a public hearing:

1. Chairperson announces the public hearing and the subject matter.
 - a. If the hearing is for a variance, appeal, special use permit or special exception the Chairperson should remind all parties present that the Zoning Ordinance requires a concurring vote of three (3) members of the BZA to approve a variance.
 - b. No cross-examination or questions of speakers testifying may be permitted, except by members of the BZA, without the permission of the Chairperson.
 - c. The Chairperson or the Secretary may swear in all staff and speakers wishing to testify.
2. Chairperson calls on the staff of the Department of Planning and Zoning to present Staff's position and the background of the case, the staff member may then identify the details of the property and briefly describe the application.
3. BZA members may pose questions to Staff.
4. Chairperson calls on the applicant or appellant and/or their authorized agent or attorney to present the applicant's or appellant's position.
5. BZA members may pose questions to the applicant or appellant and/or their authorized agent or attorney.
6. Chairperson calls for testimony from any person present, stressing that the testimony needs to be relevant and limited to the precise issue that is the subject of the hearing.
7. Chairperson calls on Staff to offer a rebuttal or additional remarks, if desired.

8. Chairperson calls on applicant or appellant and/or their authorized agent or attorney to rebut or for additional remarks, if desired.
9. BZA members may pose final questions to the applicant or appellant, and/or their authorized agent or attorney, or Staff.
10. Chairperson closes the public hearing.
11. The BZA may discuss the matter and take action. Decisions and other actions or orders of the BZA should be taken in the form of a motion or resolution. The form and scope of BZA decisions should be as set forth in §15.2-2309 VA Code Ann.
12. A decision of the BZA is considered a “final decision” for the purposes of appeal when the BZA has made a decision that: (i) resolves the merits of the action before the BZA, or (ii) effects a dismissal of the case with prejudice. The thirty (30) day appeal period to the Circuit Court shall commence upon the final decision of the BZA.
13. The final decision of the BZA shall be promptly filed with the Secretary and become part of the BZA’s public record. The Secretary shall promptly prepare and provide to the applicant or appellant the BZA’s final decision on the application.
14. All meetings shall be conducted in accordance with these By-laws, the Front Royal Zoning Ordinance, the Code of Virginia, and if needed, Robert’s Rules of Order.

ARTICLE VIII. REQUEST FOR REHEARING AND RECONSIDERATION.

1. A party may request a rehearing by filing said request in writing with the Secretary within seven (7) days of date of the decision sought to be reheard and reconsidered. A decision will not be reheard or reconsidered at the original meeting where it was made.
2. Any request for rehearing must establish one or more of the following:
 - a. The BZA overlooked or misunderstood a material fact or legal issue which would change the decision sought to be reheard.
 - b. The existence of new and material evidence, which (i) was not previously available, (ii) could not have been reasonably discovered previously after diligent investigation, and (iii) could change the decision sought to be reheard.
 - c. A request for rehearing and reconsideration will be considered by the BZA at its next regularly scheduled meeting.
 - d. A motion to grant a rehearing must be made by at least one (1) member who voted in favor of the decision sought to be reheard.

- e. If a decision is made granting a request for rehearing, the BZA will (i) set a date for rehearing, and (ii) notice will be given by the applicants or by the staff of the Department of Planning and Zoning as required by law and these By-laws.
- f. A rehearing shall proceed in the same manner as a regular BZA hearing.
- g. A request for rehearing and reconsideration alone will not change the deadlines for appeal under the Code of Virginia and Zoning Ordinance.

ARTICLE IX. RECORDS

- 1. A file containing all relevant material and decisions, including any final decision, relating to each case shall be kept by the Department of Planning and Zoning as part of the records of the BZA.
- 2. All records of the BZA shall be public records, unless they are exempted from disclosure under the Virginia Freedom of Information Act, §2.2-3700, et seq., VA Code Ann.

ARTICLE X. SEVERABILITY

If any word, clause, sentence, article, section, subsection, or other part or parts of these By-laws shall be held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining parts of these By-laws, nor shall it affect any application of these By-laws that may be given effect without the unconstitutional or invalid parts, and to this end, all provisions of these By-laws are hereby declared to be severable.

ARTICLE XI. REVISIONS

These By-laws, adopted by action of the Board of Zoning Appeals, may be amended by an affirmative vote of not less than three (3) members.

Revised 06/17/14

TOWN OF FRONT ROYAL

BOARD OF ZONING APPEALS



2022

ANNUAL REPORT

PLANNING STAFF

Lauren Kopishke
Director of Planning and Zoning
August 2, 2021 – Current

John Ware
Deputy Zoning Administrator/Planner I
November 15, 2021 - Current

Monica McClure
Property Maintenance Official/Code Enforcement
December 20, 2021 - Current

Connie L. Potter
Executive Assistant/Board and Commissions Clerk
January 17, 2006 - Current

Carol Buffa
Planning Technician
October 3, 2022

BOARD OF ZONING APPEALS 2022

The Code of Virginia requires all jurisdictions with a Zoning Ordinance to have a Board of Zoning Appeals. The Board of Zoning Appeals is a five-member board of citizens appointed by the Circuit Court. The Board hears variance requests from the requirements of the Zoning Ordinance and appeals of decisions made by the Zoning Administrator. All variance requests and appeals require a public hearing. Appeal and variance requests are discretionary decisions; although case law does provide guidance as to what the courts consider a hardship which is required for a variance approval.

2022 BZA MEMBERS

R. Wayne Sealock, Chairman.....Term Expires May 1, 2022 Appointed May 7, 2007
 David GedneyTerm Expires May 1, 2024 Appointed June 29, 2009
 Cody Taylor.....Term Expires May 1, 2027 Appointed November 22, 2021
 Christine ErinTerm Expires May 1, 2025 Appointed January 24, 2022
 Michael Sean WilliamsTerm Expires May 1, 2024 Appointed January 24, 2022
 Amanda J. McCarthy.....Term Expires May 1, 2023 Appointed February 28, 2022
 Andi A. Robinson.....Term Expires May 1, 2027 Appointed April 25, 2022

- *Christine Erin filled the unexpired term of Edwin Hensley who resigned March 2021
- * Michael S. Williams filled the unexpired term of David Gedney who resigned January 2022
- * Amanda J. McCarthy filled the unexpired term of Ronald Flores who resigned October 2021
- * Andi A. Robinson filled the vacancy of R. Wayne Sealock’s expired term

BOARDS OF ZONING APPEALS MEETING ATTENDANCE 2022

NAME	MEETINGS PRESENT	# OF MEETINGS
Cody Taylor	4	5 (80%)
Michael Sean Williams	5	5 (100%)
Christine Erin	4	5 (80%)
Amanda J. McCarthy	4	5 (80%)
Andi A. Robinson	3	4 (75%)
R. Wayne Sealock	1	1 (100%)

BZA ANNUAL REPORT 2022

DATE OF MEETING	APPLICANT	ATTENDANCE
March 15, 2022	The BZA met to elect officers, approve meeting minutes, and review the BZA By-Laws.	Present: R. Wayne Sealock Cody Taylor Michael S. Williams Christine Erin Amanda McCarthy
June 21, 2022	<p>2200143 Variance of 175-44.C.1 of the Town of Front Royal Zoning Ordinance submitted by RK Holdings d/b/a Rural King Front Royal to permit an above ground propane storage tank.</p> <p><i>Status: Vice Chairman Williams moved, seconded by Ms. Robinson to deny application 2200143 after due notice and hearing as required by the Code of Virginia 15.2-2204 and Section 175.139 of the Town of Front Royal Zoning Ordinance based on the following Board findings. The strict application of the terms of the chapter does not effectively prohibit or unreasonably restrict the use of the property.</i></p>	<p>Present: Christine Erin Amanda McCarthy Andi Robinson Michael S. Williams</p> <p>Absent: Cody Taylor</p> <p>Denied: 4-0 Absent: 1</p>
October 18, 2022	<p>Variance Application 2200398 submitted by Property Connection LLC for multiple variances from the zoning regulations of Town Code Chapter 175. The purpose of the variances is to subdivide a single parcel, upon which two existing detached single-family dwellings are located into two parcels. Each dwelling will be located on its own individual lot. The property is zoned C-1 (Community Business District) and is identified as Tax Map #20A4-4-3 with the two dwellings located thereon addressed as 225 East 7th Street and 631 Kibler Street, Front Royal, VA.</p> <p>The following variances are requested from the requirements of the Zoning Ordinance C-1 Zoning District, Chapter 175-38:</p> <ol style="list-style-type: none"> i. The proposed lot upon which the dwelling identified as 225 E 7th Street will be granted a 3,460 square foot variance from the minimum 7,500 square foot lot area requirement of Town Code Chapter 175-40.A.2. ii. A 15.5-foot variance from the minimum 90-foot lot width for corner lots required by Town Code Chapter 175-40.D.2. 	<p>Present: Christine Erin Amanda McCarthy Andi Robinson Michael S. Williams Cody Taylor</p>

	<ul style="list-style-type: none"> iii. Said dwelling be granted a 0.3-foot variance from the minimum 15-foot corner lot side yard setback requirement of Town Code Chapter 175-42.A.4. iv. Said dwelling be granted a 6.2-foot variance from the minimum 15-foot rear yard setback requirement of Town Code Chapter 175-42.A.3. v. Said dwelling be granted a 5.5-foot variance from the minimum 15-foot front porch to the front property line requirements of Town Code Chapter 175-3. vi. Said dwelling be granted a 13.2-foot variance from the minimum 15-foot rear porch to the rear property line requirement of Town Code Chapter 175-3. <p><i>Status: Chairman McCarthy moved, seconded by Mr. Taylor to postpone a decision until the next meeting in order for the applicant to provide additional information regarding the Variance application.</i></p>	<p>Postponed: 5-0</p>
<p>November 15, 2022</p>	<p>Continuance of Variance Application 2200398 submitted by Property Connection LLC for multiple variances from the zoning regulations of Town Code Chapter 175. The purpose of the variances is to subdivide a single parcel, upon which two existing detached single-family dwellings are located into two parcels. Each dwelling will be located on its own individual lot. The property is zoned C-1 (Community Business District) and is identified as Tax Map #20A4-4-3 with the two dwellings located thereon addressed as 225 East 7th Street and 631 Kibler Street, Front Royal, VA.</p> <p>The following variances are requested from the requirements of the Zoning Ordinance C-1 Zoning District, Chapter 175-38:</p> <ul style="list-style-type: none"> i. The proposed lot upon which the dwelling identified as 225 E 7th Street will be granted a 3,460 square foot variance from the minimum 7,500 square foot lot area requirement of Town Code Chapter 175-40.A.2. ii. A 15.5-foot variance from the minimum 90-foot lot width for corner lots required by Town Code Chapter 175-40.D.2. iii. Said dwelling be granted a 0.3-foot variance from the minimum 15-foot corner lot side yard setback requirement of Town Code Chapter 175-42.A.4. 	<p>Present: Andi Robinson Michael S. Williams Cody Taylor</p> <p>Absent: Amanda McCarthy Christine Erin</p>

<p>November 15, 2022 - Continued</p>	<p>iv. Said dwelling be granted a 6.2-foot variance from the minimum 15-foot rear yard setback requirement of Town Code Chapter 175-42.A.3.</p> <p>v. Said dwelling be granted a 5.5-foot variance from the minimum 15-foot front porch to the front property line requirements of Town Code Chapter 175-3.</p> <p>vi. Said dwelling be granted a 13.2-foot variance from the minimum 15-foot rear porch to the rear property line requirement of Town Code Chapter 175-3.</p> <p>Status: <i>Mr. Taylor moved, seconded by Ms. Robinson to deny based on the fact that the hardship is self-created.</i></p> <p>Variance Application 2200442 submitted by Angela Baker for a variance from Town Code Chapter 175-14 pertaining to the front yard setback for property located at 1015 Wine Street and is identified by Tax Map #20A9-4-26. The property is located in the R-1, Residential Zoning District. The variance would effectively allow the applicant a front yard setback of eighteen feet (18'). The required front yard setback is thirty-five feet (35') and the applicant has a front yard setback of twenty-five feet (25'). The variance requested by the applicant is to allow the addition of a front porch.</p> <p>Status: <i>Ms. Robinson moved, seconded by Mr. Taylor to deny the variance due to the fact this does not constitute a hardship because there is another option of a fence and also properties in the area are all of like kind with like stoops and to allow one would allow all potentially.</i></p>	<p>Deny Yes: 2 No: 1 Absent: 2 McCarthy, Erin</p> <p>Application continued due to lack of a majority vote of 3 out of 5 members.</p> <p>Deny Yes: 3 No: 0 Absent: 2</p>
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<p>December 20, 2022</p>	<p>The public hearing was closed at the November 15, 2022, BZA meeting. This is a continuation of the discussion for Variance Application 2200398 submitted by Property Connection LLC for multiple variances from the zoning regulations of Town Code Chapter 175. The purpose of the variances is to subdivide a single parcel, upon which two existing detached single-family dwellings are located into two parcels. Each dwelling will be located on its own individual lot. The property is zoned C-1 (Community Business District) and is identified as Tax Map #20A4-4-3 with the two dwellings located thereon addressed as 225 East 7th Street and 631 Kibler Street, Front Royal, VA.</p> <p>The following variances are requested from the requirements of the Zoning Ordinance C-1 Zoning District, Chapter 175-38:</p> <ol style="list-style-type: none"> i. The proposed lot upon which the dwelling identified as 225 E 7th Street will be granted a 3,460 square foot variance from the minimum 7,500 square foot lot area requirement of Town Code Chapter 175-40.A.2. ii. A 15.5-foot variance from the minimum 90-foot lot width for corner lots required by Town Code Chapter 175-40.D.2. iii. Said dwelling be granted a 0.3-foot variance from the minimum 15-foot corner lot side yard setback requirement of Town Code Chapter 175-42.A.4. iv. Said dwelling be granted a 6.2-foot variance from the minimum 15-foot rear yard setback requirement of Town Code Chapter 175-42.A.3. v. Said dwelling be granted a 5.5-foot variance from the minimum 15-foot front porch to the front property line requirements of Town Code Chapter 175-3. vi. Said dwelling be granted a 13.2-foot variance from the minimum 15-foot rear porch to the rear property line requirement of Town Code Chapter 175-3. <p>Status: There was a motion to approve Variance Application 2200398, however there was not a second. The Variance Application therefore dies and was denied because there was not a majority vote to approve.</p>	<p>Present: Michael S. Williams Cody Taylor Amanda McCarthy Christine Erin</p> <p>Absent: Andi Robinson</p> <p>Denied for lack of a second and there was not a majority vote to approve.</p>
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