

The Board of Zoning Appeals Special meeting of the Town of Front Royal, Virginia was held on January 7, 2021, at 7 pm.

CALL TO ORDER:

Chairman Sealock called the meeting to order at 7:00 pm.

ROLL CALL – DETERMINATION OF QUORUM – Given by Timothy Wilson

Present: Wayne Sealock, Chairman
David Gedney, Vice Chairman
Ronald Flores - Attended Remotely
Tamar Yager – Attended Remotely
John Hensley

Staff: Timothy Wilson, Director of Planning and Community Development
Douglas Napier, Town Attorney
Alfredo Gutierrez Velasquez, Planner I/GIS Technician

Two BZA members attended remotely in accordance with the Board of Zoning Appeals adopted policy.

ELECTION OF OFFICERS – Calendar Year 2021

Mr. Hensley moved to nominate the Chairman as Wayne Sealock, Vice Chairman as David Gedney and Secretary as Connie Potter, Executive Assistance with the Department of Planning & Zoning, seconded by Ms. Yager.

VOTE: Yes – Gedney, Flores, Yager, Hensley
No – N/A
Absent – N/A
Abstain – N/A

APPROVAL OF MINUTES

- September 15, 2020

Vice Chairman Gedney moved, seconded by Mr. Flores to approve the minutes from September 15, 2020 as written.

VOTE: Yes – Sealock, Gedney, Flores
Abstain – Yager, Hensley
No – N/A
Absent – N/A

PUBLIC HEARINGS

- **Appeal Case - FRBZA 2378-2020**, David Vazzana, F&R Limited Partnership appealing memorandum of October 15, 2020, from the Director of Community Development and Planning to the Front Royal Planning Commission.

Mr. Wilson explained this was an appeal submitted by Mr. David Vazzana, representing F&R Limited Partnership. The subject of the appeal is a Staff Memorandum dated October 15, 2020, which was issued by himself, Timothy L. Wilson as Director of Community Development and Planning to the Front Royal Planning Commission. The appellant states in his application quote “he does appeal the staff interpretations, determinations and conclusions as presented in the staff memo to the Planning Commission dated October 15, 2020 and received by FRLP on October 16, 2020. In addition, FRLP also hereby appeals the Town staff interpretations, determinations and conclusions as presented to the Town Planning Commission at its work session of November 4, 2020”. That was a work session that Mr. Wilson presented that memorandum. Mr. Wilson stated he presented to the Board of Zoning Appeals a motion to dismiss this appeal based on both procedural and substantive errors. His finding with the appeal is that it was filed incorrectly and furthermore that the appellant does not have standing as an agreed party and that the subject matter for which relief sought is beyond the scope of the review authority of the Board of Zoning Appeals. Mr. Wilson provided Board members with a record of his facts and findings in the case as well as a motion to dismiss that he respectively requested the Board to take up at the beginning of the case.

Mr. Hensley asked if legal counsel was present.

Doug Napier, Town Attorney who was present stated that Mr. Vazzana has alleged that he has a conflict of interest, so he would prefer not to render an opinion in the matter. Mr. Napier stated he did not have a conflict of interest, but Mr. Vazzana has alleged that he does, and he feels he would be doing a disservice to Mr. Vazzana to render an opinion.

Mr. Flores asked if denying the application would stop Mr. Vazzana from applying by the proper channels in the future.

Chairman Sealock said this shouldn’t be before the Board of Zoning Appeals and it was completely out of their realm of what they could enforce.

Mr. Wilson said that was a correct summary of his position. Mr. Vazzana is not an agreed party. The item being appealed was an advisory memorandum issued by himself as Director of Planning on the subject matter of the initiating of amendments to plans and ordinances to the Planning Commission in which he concluded he was seeking their directive. Mr. Wilson explained it was his finding that Mr. Vazzana is not a party aggrieved. He has specified no grounds, what relief is being sought and that the subject matter of the actions of the Planning Commission or his actions as Director of Planning & Development are beyond the scope of review authority of the Board of Zoning Appeals.

The public hearing was opened.

David Vazzana, 6344 Old Goose Creek Road, Middleburg, VA voiced he had submitted a letter and some materials to Mr. Wilson in the afternoon prior to the meeting. Mr. Vazzana provided a copy of the letter to the BZA members and asked that the comments be incorporated into the record of this matter. As far as the jurisdictional issues, he thinks they fall within the authority and scope of the Board of Zoning Appeals. Staff has presented its opinions on those jurisdictional issues and done a very good job presenting those opinions, but ultimately it is not staff's role to make the decisions on those jurisdictional issues and there are statutory requirements as far as the Board and the Town and creating a record of the proceedings and a record of this matter and he asked the Board to accept his comments and actually take thirty (30) days to digest and process them before rendering a decision. Either way he respectfully requested the Board to accept the comments into the record.

Chairman Sealock did not believe his comments could go into the record and asked Mr. Napier's opinion.

Mr. Napier said if Mr. Vazzana wanted to substitute his written comments in place of oral comment's he could do that. It can go into the file, not the minutes as a substitute for his oral comments.

Ms. Yager moved, seconded by Mr. Flores that this is out of their purview, and they cannot hear the appeal and to dismiss it.

Mr. Flores seconded the motion based on the discussion. He stated that Mr. Wilson has given them informative bullet points and specifically bullet number 6 explaining the Board of Zoning Appeals does not have the authority related to the subject of the appeal.

VOTE: Yes – Gedney, Yager, Flores

No – Hensley

Abstain – N/A

Absent – N/A

- **Variance Case FRBZA2403-2020**, Marty Zuckerman, Zuckerman Metals, Inc. requesting variances from the I-1 District minimum side yard regulation to allow for a proposed subdivision of property with existing buildings.

Mr. Wilson explained this was a variance request to allow for a subdivision of a single parcel that is owned by the applicant. There are multiple existing principal buildings. Mr. Zuckerman would like to subdivide into two (2) lots however he is unable to configure the lots in any such way to comply with all setback requirements. He proposes a variance on each lot. The property is located on East 4th Street in the I-1 District. This district requires a minimum ten-foot (10') side yard setback as stated in Zoning Ordinance Section 175-59.B "frontage and yards". Mr. Zuckerman proposed to split the property evenly between the two buildings which results in a setback from a new proposed dividing side property line of 8.2 feet. Divided equally Mr. Zuckerman requires a variance of 1.8 feet for each of the existing structures on the newly proposed lots.

Mr. Wilson provided additional ways to provide a variance to allow one of the buildings to meet the required setbacks thus allowing for only one of the buildings to be nonconforming.

Chairman Sealock opened the public hearing.

Mr. Zuckerman, 1012 E. Stonewall Drive. The property related to the variance is owned by Zuckerman Metal Incorporated. Mr. Zuckerman gave a brief history of his ownership of the property and plans for the structures.

Chairman Sealock asked if moving the boundary line towards 218 E. 4th Street was the best action. Mr. Wilson confirmed that was a valid consideration for the Board of Zoning Appeals to consider.

Mr. Hensley moved to authorize the variance of 3.6 feet to lot 17A with the condition that the Zoning Department cannot authorize a fence between the two (2) properties.

There was a brief discussion among the Board of Zoning Appeals members that they did not have the authority to restrict the installation of a fence.

Mr. Napier advised that when Mr. Zuckerman sells the property, he can place a covenant in the deed that a fence shall not be permitted.

Mr. Hensley stated he would keep his motion and remove the condition.

Motion seconded by Vice Chairman Gedney.

VOTE: Yes – Gedney, Flores, Yager, Hensley

No – N/A

Abstain – N/A

Absent – N/A

OTHER BUSINESS

There were no additional comments.

ADJOURNMENT

Mr. Hensley moved to adjourn, seconded by Ms. Yager.

VOTE: Yes – Gedney, Flores, Yager, Hensley

No – N/A

Abstain – N/A

Absent – N/A

The meeting adjourned at 7:39 pm

Connie L. Potter

Connie L. Potter

Executive Assistant