

BOARD OF ZONING APPEALS

PUBLIC HEARING MINUTES

The regular meeting of the Board of Zoning Appeals was held on
Monday, October 18, 2021 at 7:00 p.m.
At 7:00 p.m. in City Council Chambers, City Hall, Alexandria, Virginia.

The proceedings of the meeting were recorded; records of each case are on the web at
www.alexandriava.gov/dockets and on file in the Department of Planning & Zoning.

Members Present: Mark Yoo, Acting Chair
Lee Perna, Secretary
Erich Chan
Tim Foley
Quynn Nguyen
Jon Wacławski

Absent Members: Laurence Altenburg, Chair

Staff Present: Mary Christesen, Department of Planning & Zoning
Maggie Cooper, Department of Planning & Zoning
Kaliah Lewis, Department of Planning & Zoning

CALL TO ORDER

1. Mr. Yoo called the October 18, 2021 Board of Zoning Appeals to order at 7:00 p.m.

NEW BUSINESS

2. Electronic Participation Policy for Board of Zoning Appeals Hearings.

BOARD OF ZONING APPEALS ACTION, OCTOBER 18, 2021: On a motion by Mr. Waclawski, seconded by Mr. Foley, the Board of Zoning Appeals approved the Electronic Participation Policy. The motion carried by a vote of 6 to 0.

A motion to deny the policy by Mr. Perna, seconded by Ms. Nguyen, failed on vote of 6 to 0.

Mr. Perna expressed reservations about the requirements in the resolution to provide specific information about the personal matter, disability or medical condition preventing in person attendance and the requirement for the Board to record that information as part of the public record.

Ms. Nguyen asked the staff to explain the requirements for requiring specific information to participate remotely. Christina Brown from the City Attorney's Office explained the policy mirrors the state law requirements. Staff further clarified that the information is provided to the Chair and reflected in the minutes. The Chair can work with staff to develop criteria for absence.

Mr. Wacalwski spoke in opposition to the Mr. Perna's motion. He viewed this policy as another mechanism to allow members to participate. There are means available to achieve some level of acceptable terms to ensure confidentiality. The option to be absent is still available if there is personal information that a Board member does not want to share.

Ms. Nguyen asked for clarification why there is a different level of reason documentation for remote participation than for an excused absence. She wanted to know if the specific medical condition must be disclosed.

Staff provided clarification that the specific nature of the medical condition do not need to be disclosed or documented and explained that an excused absence policy is not changing. This policy will allow greater flexibility for members that are not available to participate in person, but would be able to participate remotely. The Code of Virginia states that the reasons for electronic participation must be disclosed and recorded the minutes.

Mr. Foley stated this policy is an additional option for participation for Board members as the ability to be absent without disclosing personal information is still available.

3. BZA #2021-00012
1117 Queen Street Public Hearing and consideration of a request for Variances from side yard setback requirements to construct a single-family dwelling; zoned: CL/Commercial Low.
Applicants: Matthew & Erica Gray

BOARD OF ZONING APPEALS ACTION, OCTOBER 18, 2021: On a motion by Mr. Perna and seconded by Mr. Foley, the Board of Zoning Appeals approved the variances subject to all applicable codes, ordinances, staff recommendations and conditions, with the additional conditions:

- 1) 3 feet is maintained between the two buildings- the subject property and the building on the property to the east;
- 2) The 1.5 feet between the subject property and its property line to the east remain unobstructed for the length of the building to the east; and;
- 3) Wall check survey be required after foundation and before framing.

The motion carried on a vote of 6 to 0.

Reason to Approve:

The Board approved the variances for reasons outlined in the staff report.

Reason:

Mr. Perna asked for clarification as to why the applicant had to come back if the overall height of the building had not increased. Ms. Cooper explained that section 11-1107 states that an expansion in an area that requires a variance, even if it has already received a variance, must come for an additional variance. Mr. Perna said that at the previous BZA meeting, they discussed having 3 feet of unobstructed space between 1117 and 1113 Queen and he wanted to add that condition to this application.

Mr. Perna asked if the applicant would consider adding screening to the east side of the rear roof deck. Mr. Foley agreed that it might be appropriate to add screening. Ms. Christesen explained that a screen would increase the height and would therefore require another variance request as it would not meet the required side yard setback. Ms. Nguyen said the proposed revision with the half wall on the deck is an improvement over the open railing that the Board previously approved. Mr. Yoo said that because the Board had already approved a roof deck in this general location, he found this to be reasonable without the additional screening and Mr. Perna agreed.

Mr. Foley asked for staff for clarification on the location of the neighboring building at 1113 Queen Street and if the extension would negatively impact light and air to that property. Ms. Cooper said they did not believe the 4.5-foot extension would impact light and air as the lots are long and narrow and 1113 Queen Street would still have light on the rest of the property. Mr. Foley asked the applicant if he had considered moving the property forward instead of extending backwards. Mr. Gray said the BAR asked them to locate the new dwelling at a location that was consistent with the buildings to the west, all of which are set back from the front property line. The buildings to the east are all set at or over the front property line. Mr. Blair mentioned that at the previous BZA hearing, the property owner at 1113 Queen Street asked the BZA to consider the location of her electric meter which is at the front of her building.

Ms. Nguyen asked if the applicant had met their notification requirements for the hearing. Ms. Cooper and Ms. Lewis confirmed the applicant did meet their notification requirements.

Mr. Yoo stated he was present at the Board of Architectural Review meeting when the BAR made design recommendations and found the additional request for an expansion to be a reasonable request. He also said the overall lowering of the total building height would allow more sunlight into the side yards.

Mr. Perna made a motion to approve with the condition that a 3-foot unobstructed passage be maintained between the proposed building and its neighbor. Mr. Yoo asked Mr. Perna for clarification if the 3-foot area was for both sides of the property or just the east side. Mr. Perna said just the east side.

Mr. Foley asked if they could add the requirement of a wall check. Ms. Christesen clarified that building permits require a wall check at the time footings are poured and are required prior to the framing inspection. Mr. Foley said he did not want to allow for builder's error. Mr. Yoo asked staff if the builder's error was part of the zoning ordinance. Ms. Christesen explained that there is a provision in the zoning ordinance that allows for contractor's error and she did not believe the Board could condition that a section of the ordinance not apply. Mr. Yoo agreed and said he didn't not believe the Board could apply conditions that override the existing ordinance. Ms. Christesen also stated that a requirement for a wall check is already in the staff report as a recommendation. Mr. Foley stated he wanted to also add it as a condition.

Mr. Wacławski said the applicant can only maintain the ability to build or not build a fence on their 1.5-foot setback and they cannot preclude the neighbor from building a fence. He asked for a revision to the condition.

Mr. Perna said he wanted to add the condition from the previous approval that the new building be a minimum of 3 feet from the existing building at 1113 Queen Street. Ms. Nyugen agreed.

Speakers:

Matt Gray, applicant, presented the case and answered questions from the Board.

Duncan Blair, attorney for the applicant, answered questions from the Board.

MINUTES

4. Consideration of the minutes from the July 12, 2021 Board of Zoning Appeals Hearing.

BOARD OF ZONING APPEALS ACTION, OCTOBER 18, 2021:

On a motion by Mr. Perna, seconded by Mr. Foley, the Board of Zoning Appeals approved the minutes as submitted. The motion carried on a vote of 6 to 0.

5. Re-approval and ratification of the meeting minutes of the Board of Zoning Appeals meetings from January 13, 2020, through May 10, 2021.

BOARD OF ZONING APPEALS ACTION, OCTOBER 18, 2021:

On a motion by Mr. Foley, seconded by Mr. Waclawski, the Board of Zoning Appeals approved the minutes with with the amendment that the reapproval of these minutes in no way undermines any other decision by the Board made during the same period. The motion carried on a vote of 5 to 0 to 1. M. Perna abstained.

Mr. Perna suggested the requirement to reapprove minutes previously approved while operating virtually calls into question the legitimacy of other decisions made by the Board.

ADJOURNMENT

6. The Board of Zoning Appeals hearing was adjourned at 8:10 p.m.