

**BOARD OF ZONING APPEALS
PUBLIC HEARING MINUTES**

The regular meeting of the Board of Zoning Appeals was held on
Monday, December 13, 2021 at 7:30 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: Laurence Altenburg, Chair
 Mark Yoo, Vice Chair
 Lee Perna, Secretary
 Erich Chan
 Tim Foley
 Quynn Nguyen
 Jon Waclawski

Absent Members: None

Staff Present: Mary Christesen, Department of Planning & Zoning
 Rachel Drescher, Department of Planning & Zoning
 Sam Shelby, Department of Planning & Zoning

CALL TO ORDER

1. Mr. Altenburg called the December 13, 2021 Board of Zoning Appeals to order at 7:30 p.m.

NEW BUSINESS

2. BZA #2021-00014

323 North Henry Street

Public Hearing and consideration of a request for Variances from the required side yard setbacks to construct an addition; zoned: CL/Commercial Low.

Applicant: Azizul Choudhury

BOARD OF ZONING APPEALS ACTION, DECEMBER 13, 2021: On a motion by Mr. Yoo and seconded by Mr. Foley, the Board of Zoning Appeals approved the variances subject to all applicable codes, ordinances, staff recommendations and conditions. The motion carried on a vote of 6 to 1. Ms. Nguyen dissented.

Reason to approve: The request met the criteria for a variance as outlined in the staff report.

Dissenting reason: Ms. Nguyen stated the property condition is reoccurring in nature, which does not meet Section 11-1103(E).

Speakers:

Azizul Choudhury, the applicant, presented the case.

Discussion:

Mr. Perna asked why they did not ask for a variance up to the property line to be in line with the existing structure. Mr. Choudbury explained building code regulations restricted the type of building material that can be along property lines, and placing the addition further from the side property lines was more reasonable.

Ms. Nguyen asked staff to clarify how this request was not reoccurring in nature. Staff explained this property is a single-family dwelling on a narrow lot in the CL zone. Many of the parcels with a similar width are semi-detached dwellings. Ms. Nguyen asked about whether open space requirements can be met on the lot. Staff explained that currently the open space requirement is not being met, but the applicant would be required to reduce the size of their parking space during the building permit process to bring the property into compliance with open space.

Mr. Perna asked what the parking space requirement was for the property. Staff explained a parking space is 9 feet by 18.50 feet, so currently there is only enough parking area for one vehicle, so reducing the space to the minimum size requirement would not change the number of parking spaces on the lot.

3. BZA #2021-00015

1017 Oronoco Street

Public Hearing and consideration of requests for a Variance to increase the maximum permitted floor area and a Special Exception from the required side yard setback to construct a second-story addition; zoned: RB/Townhouse.

Applicant: David Clouser

BOARD OF ZONING APPEALS ACTION, DECEMBER 13, 2021: On a motion by Ms. Nguyen and seconded by Mr. Perna, the Board of Zoning Appeals denied the variance. The motion carried on a vote of 7 to 0. Because the Board did not approve the variance, they did not hear the special exception request.

Reason: The Board agreed with the staff analysis.

Speakers:

D. Keith Clouser, the applicant, presented the case.

Discussion:

Mr. Foley asked the applicant about the age of the existing additions to the dwelling. The applicant replied that he was unsure of the exact years the additions were constructed.

Mr. Perna asked staff to clarify the request as he understood that the Board could not consider variance requests to exceed the maximum floor area ratio (FAR). Staff explained that applicants may request FAR variances but that they should only be granted in exceptional circumstances. Staff further explained that because the FAR requirements limit density, a variance to increase the maximum FAR would be equivalent to increasing density. Because FAR requirements are specific to each zone, increasing FAR would be equivalent to changing to a zoning classification (rezoning) which would allow for higher density. The Board is not authorized to rezone properties and would therefore have to find that the request would not result in a density increase.

Mr. Wacławski asked staff to explain how the existing dwelling's floor area became noncomplying. Staff replied that most of the existing dwelling was built before the Zoning Ordinance regulated FAR. Staff also explained that the Zoning Ordinance's FAR requirements have evolved over time. Floor area which was previously eligible for exclusion from FAR could not currently be excluded.

Mr. Altenburg asked staff to explain the grandfather status of the property. Staff explained that the Zoning Ordinance classifies the subject property as legally noncomplying with regard to FAR. As such, it can remain indefinitely, but it cannot be expanded unless the proposed expansion complied with the FAR requirement.

Ms. Nguyen asked if the Board had heard any previous cases for the subject property. Staff replied that there were no previous variance nor special exception requests.

Mr. Foley and Mr. Chan asked staff what the Board would have to find to determine that the request would not increase density. Staff determined that the request would increase density and stated that the applicant would have to demonstrate otherwise.

Mr. Altenburg asked staff what appeal processes could occur if the Board approved the request. Staff replied that the decision could be appealed to circuit court.

Ms. Nguyen asked if staff and the applicant had discussed a rezoning application instead of a variance request. Staff did not discuss a rezoning application with the applicant.

Mr. Foley asked staff to define density. Staff explained that FAR is measurement of a building's density or square footage as it relates to the square footage of the lot on which it's constructed.

Mr. Perna confirmed with staff that if the Board were to deny the request, and the applicant were to remove the proposed addition from the scope of work, that the interior renovations, removal of a staircase and an interior chimney would still require variance approval as they technically increase the subject property's FAR.

Mr. Waclawski asked whether the FAR maximums had ever been increased. Staff explained that while the Zoning Ordinance has been amended to allow for more exclusions for porches, detached garages and other spaces, the maximum FAR limit has not been increased in most of the zones.

Ms. Nguyen confirmed with staff that the applicant could apply for a rezoning if the Board denied the variance request.

Mr. Foley observed that because the proposed addition encompassed a small, second-story expansion above an existing portion of the dwelling's first floor that it did not necessarily increase density. Mr. Perna and Ms. Nguyen explained that the request, if approved, would result in additional square footage.

Mr. Waclawski found that the request was modest and the proposed addition practical, but that he did not see that it met the criteria for a variance.

Mr. Yoo agreed with Mr. Waclawski and expressed concern with approval as it could set a precedent for potential FAR variance cases in the future. Mr. Foley concurred with Mr. Yoo.

Mr. Perna stated that he could support a different variance request from the applicant to reconfigure the interior floorplan only. Mr. Yoo agreed as reconfiguring the interior of a building might not necessarily increase its density.

Mr. Altenburg acknowledged the complicated nature of FAR regulations. He did not find that there was an unreasonable restriction or hardship.

4. BZA #2021-00016

2812 Davis Avenue

Public hearing and consideration of a variance from the required front yard and special exception from the required side yard to construct a second-story addition, enclosed porch and deck; zoned R-8/Single-family.

Applicants: David Blank & Amber Fuller, represented by Rebecca Bostick

BOARD OF ZONING APPEALS ACTION, DECEMBER 13, 2021: On a motion by Mr. Perna and seconded by Ms. Nguyen, the Board of Zoning Appeals approved the variances subject to all applicable codes, ordinances, staff recommendations and conditions. The motion carried on a vote of 7 to 0.

Reason: The Board agreed with the staff analysis.

Discussion:

Ms. Nguyen asked staff to confirm the existing dwelling and lot's noncompliance. Staff confirmed that the existing lot is noncomplying with regard to lot width and frontage and that the dwelling provides a noncomplying side yard.

Mr. Altenburg confirmed with staff that the Board must approve an additional front yard variance would be required in this case because of the previously approved variance. Staff explained that only additions which could be constructed in compliance with all applicable regulations could be built without variance approval.

Mr. Perna, Mr. Yoo, Mr. Altenburg and Ms. Nguyen asked staff to clarify which portions of the applicant's proposal required special exception approval and which required variance approval. Staff clarified that the special exception request was related to the second-story addition along the south side of the dwelling. Variance approval would be required for second-story addition, the deck and the enclosure of the porch.

Mr. Altenburg expressed sympathy for the applicant because of the unique, small, oddly shaped building area of the subject property.

Speakers:

David Blank and Amber Fuller, applicants, and Rebecca Bostick, architect presented the case.

OTHER BUSINESS

5. Practical update text amendment briefing by staff.
6. Mr. Altenburg announced this will be his last meeting.

MINUTES

7. Consideration of the minutes from the October 18, 2021 Board of Zoning Appeals Hearing.

BOARD OF ZONING APPEALS ACTION, DECEMBER 13, 2021: On a motion by Mr. Perna and seconded by Mr. Waclawski, the Board of Zoning Appeals approved the variances subject to all applicable codes, ordinances, staff recommendations and conditions. The motion carried on a vote of 7 to 0.

ADJOURNMENT

The Board of Zoning Appeals meeting was adjourned at 8:58 p.m.