

BOARD OF ZONING APPEALS
PUBLIC HEARING MINUTES

The regular meeting of the Board of Zoning Appeals was held on
Monday, May 8, 2023 at 7:00 p.m.
in Sister Cities Conference Room, Room 1101, 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 and Zoning.

Members Present: Tim Foley, Chair
 Dawn Bauman, Vice Chair
 Paul Liu, Secretary
 Kimberlee Eveland
 Quynn Nguyen
 Raj Patel

Members Absent: Jon Wacławski

Staff Present: Mary Christesen, Department of Planning & Zoning
 William Conkey, Department of Planning & Zoning
 Tony LaColla, Department of Planning & Zoning
 Molly Lambert, Department of Planning & Zoning
 Antoine Pierce, Department of Planning & Zoning
 Christina Zechman Brown, City Attorney's Office

1. CALL TO ORDER

Mr. Foley called the January 9, 2023, Board of Zoning Appeals to order at 7:03 p.m.

2. ANNOUNCEMENTS

- Mr. Foley presented Mr. Perna with a Mayoral Proclamation and thanked him for his service.
- Staff noted a change to the docket due to improper notice for BZA #2022-00026.

NEW BUSINESS

3. BZA #2022-00026

415 North Patrick Street

Public Hearing and consideration of a request for Variances to construct a two-story accessory building with garage in the required rear yard, by increasing the maximum allowable Floor Area; and exceeding one-third of the principal building's gross floor area; zoned: RB/Residential Townhouse

Applicant: Kevin Reamer

BOARD OF ZONING APPEALS ACTION, MAY 8, 2023: On a motion by Mr. Patel, seconded by Ms. Bauman, the Board of Zoning Appeals voted to defer the requested variances due to improper notice. The motion carried on a vote of 6-0.

4. BZA #2023-00005

1020 Duke Street

Public Hearing and consideration of an Appeal of a zoning violation for failure to obtain a Certificate of Appropriateness for a 100-Year-Old Building; zoned: CD/Commercial Downtown Appellant: Marc Greenberg

BOARD OF ZONING APPEALS ACTION, MAY 8, 2023: On a motion by Ms. Liu, seconded by Mr. Patel, the Board of Zoning Appeals voted to approve the appeal. The motion carried on a vote of 4-2. Mr. Foley and Ms. Nguyen dissented.

Reason to approve: The Board members voting to reverse the Director's decision (issuance of the notice of violation) found that due to the year built as indicated in the tax records and other missing information about the designation in the deed, it was difficult for a homeowner to find that the building qualified as a 100-Year-Old Building and that the notice of violation should therefore not be enforced.

Dissenting Reason: The Board members voting to uphold the Director's decision agreed with the explanation in the staff report.

Speakers:

Christina Zechman Brown, Deputy City Attorney presented the City's case and answered questions.

Mark Greenberg, appellant, presented his case and answered questions.

Chad Sarchio, resident of 517 Braxton Place spoke in support of the appeal.

William Conkey, Historic Preservation Architect, answered questions.

Mary Christesen, Zoning Principal Planner, answered questions.

Discussion:

Mr. Liu asked for clarification about the 100-Year-Old-Building designation as a zoning overlay. Ms. Brown confirmed that implementation ordinance is a rezoning of the property, in addition to the base zoning.

Ms. Eveland asked about similar windows installed at other properties and whether they had received zoning violations.

Mr. Foley asked about stamps are typically placed on plans for properties designated as 100-Year-Old-Buildings. Staff responded that because the scope of the permit only included interior work, staff does not identify what other types of approvals one may need for additional work. Only the scope of the permit is reviewed.

Ms. Nguyen asked for confirmation that permit was for interior work only. Staff confirmed that no exterior work was shown on the plans. The applicant said it did not occur to him to include windows as exterior work and considered it similar to painting.

Mr. Patel asked for information about the type of windows that could be installed. Mr. Conkey responded that single pane wood windows could be administratively approved at this location.

Ms. Bauman asked about when the BAR window policy was updated as it does not seem to be energy efficient. Mr. Conkey responded that the BAR window policy was updated within the past 5 years and that wood windows are the current policy.

Ms. Bauman asked Mr. Conkey if he disputed that the building had been demolished and rebuilt in 1984. Mr. Conkey responded that they have not found any documentation that the building had been demolished and that a request to demolish in 1981 was denied by the BAR.

Ms. Bauman asked about the detailed property description in the packet. Staff explained that is a Real Estate record and that often these dates are not accurate and may be associated with later additions.

Mr. Liu asked if the City has definitions for the terms building and demolition. Staff provided the Zoning Ordinance definition of a building and explained that while the Zoning Ordinance does not define demolition, the Department of Code Administration requires a

Demolition Permit when the entire building is removed. Staff has not been able to locate a Demolition Permit for this property.

Mr. Patel asked if the City Attorney's Office has the discretion to withdraw this violation based on the findings that no parts of the building are historic. Ms. Brown explained that Planning and Zoning staff issues the violations and that is based on the designation of the building.

Ms. Bauman asked if approval is required for the replacement of windows in all residential buildings. Ms. Christesen explained that the building code requires permits for replacement of windows for properties within a historic district or with a historic overlay.

Ms. Bauman asked if other properties on this block have the same designation or if it has been removed. Staff explained that during the DIP Urban Renewal only two properties were nominated to be designated as 100-Year-Old Buildings, the rest of the block was demolished.

Ms. Ngyuen asked who submitted the application for the nomination. Mr. Conkey explained that in this case it was the property owner at the time, the Alexandria Redevelopment Housing Authority and further explained that a property cannot be added to the list without the owner's approval and it a public approval process by City Council.

Ms. Bauman asked if the applicant was notified during the building permit application for interior renovations. Staff explained that is not part of the typical permit review process to notify applicants of the overlay designation if the proposed work was interior only.

Mr. Liu asked about how the public is notified that their property is within the 100-Year-Old Building or within one of the historic districts. Ms. Brown explained that notice is sent with the annual tax assessment.

Mr. Foley asked about the brick foundation and when the last time brick foundations were used. Mr. Conkey explained the brick foundations were used in the 19th century, but said it is difficult to date due to repointing and painting. Mr. Foley also asked about the staff approximate age of the architectural style of the dwelling. Mr. Conkey said the style of the building and the historical documentation suggest a construction date in the 1870s.

Mr. Patel stated that violations that don't make sense should not be ticketed and the Board is there to help the property owners. He also stated that the windows appear to be the same and that the siding had already been replaced in 1984. Mr. Foley rebutted with his personal experiences related to replacing and restoring windows and the experiences of several neighbors that had also received notices of violation for installing inappropriate windows. Ms. Nguyen further rebutted that the BZA does not make law and that if members disagree with the law they should take it up with City Council. She further explained that the property was put on the list for a reason and there is a process to request it be removed should the owner so desire.

Mr. Liu brought up the procedural issue about insufficient notice to the property owner. He also brought up the difference between new and old property owners. Ms. Nguyen rebutted that the applicant's building permit was misrepresented as interior work only.

Ms. Christesen explained that the Zoning Ordinance does not require an applicant be notified that they are located in a historic district or within an overlay. As a courtesy to property owners notification are sent annually with the tax bills. She also explained that most violations are complaint driven and staff does not have the ability to pick and choose which sections of the ordinance to enforce. She also reminded the Board that there is a process through City Council to request this property be removed from the 100-Year-Old Building list.

Ms. Bauman asked the applicant if the title indicated the 100-Year-Old Building and what information he requested and received from his FOIA request. He asked for an explanation of the designation and stated it was not on the deed or the title. Ms. Brown clarified that it may not be in the deed, but it is recorded in land records and is findable related to the property. The deed book and page number of where it is located in land records is in the packet.

Mr. Patel asked the applicant if he had been to Council to request the overlay be removed. Mr. Greenberg stated that staff would not support the request, but then further explained the process would be costly, lengthy and it would more expensive that just replacing with appropriate windows and that staff would not support it. Ms. Brown explained that staff never provided an estimate and Mr. Conkey stated that staff does not yet have a position on removing the designation. Mr. Greenberg stated that there was no established process for removing the designation. Ms. Christesen explained it would be a rezoning of the property to remove the designation and Ms. Brown confirmed that Mr. Greenberg has been advised of the process.

Ms. Bauman asked if pages 37-38 are the designation of the property that an owner would find in land records. Ms. Brown explained that the ordinance starts on page 31. The City did not do a title report, but staff did find the documentation in land records.

Ms. Eveland stated that there were opportunities for failure on both sides. There are concerning aspects that a homeowner must go through to ensure that they are in compliance with all the rules and regulations.

Ms. Bauman asked if any designated 100-Year-Old Buildings have been fully demolished and if so does the new building still need to comply with the regulations. Mr. Conkey explained he was not aware of any, but any designated 100-Year-Old Building would need to request a permit to demolish from the BAR. Ms. Bauman also asked if any buildings have been removed from the designation. Mr. Conkey was not aware of any buildings that have been removed.

5. MINUTES

Consideration of the minutes from the March 13, 2023, Board of Zoning Appeals Hearing.

BOARD OF ZONING APPEALS ACTION, MAY 8, 2023: By unanimous consent, the Board of Zoning Appeals approved the minutes of the March 13, 2023 hearing, as submitted.

6. ADDITIONAL BUSINESS

Ms. Christesen announced that the City Attorney's Office will hold a legal training session at a work session from 6-7:00 p.m. before the June 12, 2023 hearing.

7. ADJOURNMENT

The Board of Zoning Appeals meeting was adjourned at 8:30 p.m.