

BOARD OF ZONING APPEALS PUBLIC HEARING MINUTES

The regular meeting of the Board of Zoning Appeals was held on
Monday, September 9, 2019
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
Erich Chan
Lee Perna
Timothy Ramsey

Absent Members: Daniel Poretz, Excused

Staff Present: Shaun Smith, Department of Planning & Zoning
Mary Christesen, Department of Planning & Zoning
Tony LaColla, Department of Planning & Zoning

CALL TO ORDER

1. Mr. Altenburg called the September 9, 2019 Board of Zoning Appeals to order at 7:00 p.m. Mr. Poretz was excused. All other members were present.

NOTATION: Items are listed in the order discussed by the Board of Zoning Appeals, which differs from the docket order.

MINUTES

3. Consideration of the minutes from the July 8, 2019 Board of Zoning Appeals meeting.

BOARD OF ZONING APPEALS ACTION, SEPTEMBER 9, 2019: On the motion by Mr. Perna, seconded by Mr. Ramsey, the Board of Zoning Appeals approved the minutes as submitted. The motion carried on a vote of 4 to 0. Mr. Yoo was late and did not vote.

NEW BUSINESS

2. BZA #2019-0005
417 North Washington Street
Public hearing and consideration of a request for variances from the required front yard, rear yard, north side yard, open space and lot size to convert a building currently used for office to a single-family residential dwelling; zoned: CL/ Commercial Low.
Applicant: Brian Fowler, represented by James Palmer

BOARD OF ZONING APPEALS ACTION, SEPTEMBER 9, 2019: On a motion by Mr. Perna, seconded by Mr. Yoo, the Board of Zoning Appeals moved to approved the requested variances subject to all applicable codes, ordinances and recommendations. The motion carried on a vote of 4 to 1. Mr. Altenburg dissented.

Reason to approve: The Board believed that the requested variances met the spirit of the zoning laws and are in the interest of the community.

Dissenting Reason: Mr. Altenburg found that the request did not meet the criteria for a variance and that perhaps a rezoning should have been considered.

Speakers:

James Palmer, architect representing the applicants, presented the case and answered questions from the Board.

Greg Ricketts, neighbor adjacent to the subject property, spoke in support of the variance requests.

Allison Rickets, neighbor adjacent to the subject property, spoke in support of the variance requests.

Mr. McAllister, concerned citizen, spoke in support of the variance requests.

Discussion:

Mr. Perna asked staff to provide additional information about the origin of historical documents that were referenced in the staff report, memo, and presentation related to the year that the property converted from a residential use to a commercial use. Staff stated that the documents that were used to verify the date of conversion of the use were from building permits that were housed with the Department of Code Administration. Staff also stated that in conducting research on property there is often conflicting documents that may not provide clarity on the use and that we have seen documents that the use may have flipped between residential and commercial over the years, however the most important date was the 1973 date when the property was subdivided by site plan, which stated the building was used as an office use at that particular time.

Mr. Perna referenced that one of the reasons that staff is recommending denial as outlined in the staff report was due to the number of requested variances for this case. Mr. Perna also referenced that the Board recently heard a case in June 2019 that also had a large amount of variance requests with that case where staff was recommending approval of that case. Furthermore, Mr. Perna asked what are zoning staff's standards in evaluating these cases. Staff stated that one of the criteria in evaluating a case is whether the strict application of zoning ordinance would unreasonably restrict the utilization of a property. The case referenced that was heard in June of 2019 would have required relief from Zoning Ordinance requirements regardless of the type of use, whereby the Zoning Ordinance unreasonably restricted most uses on the property and staff recommended approval of the variances. In this case, the staff indicated the zoning ordinance did not unreasonably restrict the use of the property because the building could continue to be used as an office or add accessory dwelling units to the upper floor without the need for variances.

Mr. Ramsey asked staff if the decision tonight comes down to whether the strict application of the Zoning Ordinance unreasonably restricts the utilization of the property. Staff stated that this is one of the criteria that would be analyzed in making the decision on this particular case. As the property is currently being utilized as a commercial use it can continue to be used as a commercial use.

Chairman Altenburg asked staff how many properties are residential and commercial along the block where the subject property is located. Staff stated that three properties are residential uses and the six remaining properties are nonresidential uses.

Chairman Altenburg asked what is the public interest of land uses along the block of North Washington Street where the subject property is located. Staff stated that the Old Town Small Area Plan speaks to the public interest of the preferred types of uses along this block and it specifies that this block should be used for commercial uses.

Mr. Chen asked staff did they review the development pattern along the 400 block of North Alfred Street referenced in the applicant's request in evaluating the merits of this variance request. Staff stated they did not evaluate the 400 block of North Alfred Street because it did not directly abut or effect the request before them with this variance request.

Mr. Altenburg asked considering the residential conversion trend occurring throughout Old Town, is it in the public interest for historic properties to be demolished to accomplish a conversion. Staff stated that no one wants to see historic properties demolished, but the issue is that when a historic residence converts to a commercial property it typically comes into compliance with zoning ordinance requirements and it is a decision that is made by the property owner. City Council has recently approved a text amendment to allow for the conversion of some properties from commercial uses to residential uses administratively under certain criteria. Staff is continuing to monitor the effects of this recent ordinance change.

Mr. Altenburg asked if the City believed that is was not in the interest of the public for the historic building to be demolished in order for the property to be used for a residential use. Staff stated that it would not be in the public interest to see the building demolished but there are other uses that may be located within the building that would not result in the need to demolish the structure; for example, keeping the building commercial or converting the upper floors to accessory apartments above the commercial on the ground floor space.

Mr. Perna asked how the zone transition requirement applied to property in a case heard by the Board in June 2019 (509 N. Henry Street) if the adjacent properties were zoned CSL/Commercial service low. Staff stated that the property at 509 N. Henry Street abutted residentially zoned properties to its south, and any proposed commercial building would be required to meet a 25-foot zone transition setback requirement.

ADJOURNMENT

4. The Board of Zoning Appeals hearing was adjourned at 8:15 p.m.