

BOARD OF ZONING APPEALS

PUBLIC HEARING MINUTES

The regular meeting of the Board of Zoning Appeals was held on
Monday, January 11, 2021 at 7:00 p.m.

Due to the COVID-19 Pandemic emergency, the January 11, 2021 meeting of the Board of Zoning Appeals is being held electronically pursuant to Virginia Code Section 2.2-3708.2(A)(3), the Continuity of Government ordinance adopted by the City Council on June 20, 2020 or Section 4-.01(g) in HB29 and HB30, enacted by the 2020 Virginia General Assembly (Virginia Acts of Assembly Ch. 1283 and 1289), to undertake essential business. All of the members of the Board and staff are participating from remote locations through Zoom Webinar. This meeting is being held electronically, unless a determination is made that it is safe enough to be held in person in the City Council Chamber at 301 King Street, Alexandria, VA. Electronic access will be provided in either event. The meeting can be accessed by the public through the live broadcast on the government channel 70, streaming on the City's website, and can be accessed via Zoom by the following link:

https://zoom.us/webinar/register/WN_LBF2RXh6QMquPfN_jtxfKg

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
Daniel Poretz
Quynn Nguyen
Jon Waclawski

Absent Members: None

Staff Present: Mary Christesen, Department of Planning & Zoning
Maggie Cooper, Department of Planning & Zoning
Tony LaColla, Department of Planning & Zoning
Kaliah Lewis, Department of Planning & Zoning
Alexa Powell, Department of Planning & Zoning
Sam Shelby, Department of Planning & Zoning

CALL TO ORDER

1. Mr. Altenburg called the December 14, 2020 Board of Zoning Appeals to order at 7:00 p.m.

UNFINISHED BUSINESS AND ITEMS PREVIOUSLY DEFERRED

2. BZA #2020-00023

113 South Saint Asaph Street

Public Hearing and consideration of a request for variances from the required side and rear yards, lot size and frontage and maximum dwelling units per acre to convert an existing commercial building to a multi-family dwelling; zoned: CD/Commercial Downtown.

Applicant: Zachary Burson Cotter

BOARD OF ZONING APPEALS ACTION, JANUARY 11, 2021: On a motion by Mr. Yoo, seconded by Mr. Perna, the Board of Zoning Appeals denied the variances. The motion carried on a vote of 7 to 0.

Reason:

The Board agreed with staff analysis but also found that the applicant had created the hardship.

Speakers:

Zach Cotter, applicant, presented the case.

Mr. Altenburg asked staff to explain why there would not be a public interest in changing the use of the property to exclusively residential given that the property had previously been used as a residence. He also noted that the subject property and its surroundings had, over time, changed from predominately residential to commercial. Staff found that the request would not be detrimental to surrounding property. Mr. Altenburg also asked staff to confirm the proximity of the nearest residential property to the subject property and if staff was concerned about increasing the number of residential properties in the CD zone. He clarified the latter part of his question to ask if this case would set a precedent for development approval of more residential properties within the CD zone. Staff replied that there are likely accessory apartments located along King Street and that blocks south of Prince Street are predominately residential. Staff also explained that variances should not set legal precedent because each variance request must be considered on its own merits. Mr. Altenburg then asked staff to explain why the request did not meet the variance standard which requires the condition or situation of the property to be unique. Staff explained that there are several other CD zoned properties that share similar characteristics with the subject property. Most of these properties would also need approval of the similar variance requests to convert to multifamily use.

Ms. Nguyen asked staff to clarify which variance standards were not met. Staff explained that the conditions which led to the applicant needing the request were generally occurred enough in other properties that the applicant's request was not unique. Staff also explained that the request was contrary to the purpose of the ordinance, as the CD zone only relieves properties of the residential density, bulk and open space regulations if the subject property contained exclusively commercial uses on the first floor. Further, staff stated that the request would be increasing density which shall only be accomplished by a rezoning. Ms. Nguyen asked if staff

was considering a change to the ordinance which would allow the applicant to proceed without a variance. Staff responded that while changes were being considered, there would be no guarantee, if approved, that the applicant would no longer need a variance to accomplish he proposed.

Mr. Altenburg asked staff what variances would be necessary if only two residential units were to be located on the property. Staff replied that this configuration would likely be permitted as it would be eligible for the residential reversion provisions of the ordinance and that no variance would be required.

John Richards, representing Historic Alexandria Foundation, expressed support for the applicant's intent to preserve the existing building and open space but generally spoke in opposition to the request. He stated that the applicant had not demonstrated a hardship.

Gail Rothrock found that the property was not acquired in good faith. She stated that the applicant was aware of the need for a variance prior to the purchase of the subject property. Ms. Rothrock also stated that she that the subject property was unique because of the open space provided. She spoke in opposition to the request and supported staff's recommendation of denial.

Yvonne Weight Callahan spoke in opposition to the request, stating that the variance standards were not met. She mentioned that the proposed dwelling units per acre would exceed any other maximum density permitted in the City. Ms. Callahan also expressed concern that due to the size of the proposed units, that they would be used for short-term rentals.

Mr. Perna, citing his experience in researching historic homes, stated that homes were generally advertised according to the number of rooms. He explained that the number of rooms in these advertisements did not correspond with the number of dwelling units, as currently defined by the ordinance, that the building provided. Mr. Perna found, based on historical newspaper records, that the property was converted to a commercial use in 1965. He stated that his research demonstrated that the subject property had not been used as anything but a single-family dwelling prior to its conversion to a commercial use.

Mr. Waclawski stated that while he generally supported adaptive reuse of buildings and amendments to the ordinance which helped facilitate this, he agreed with staff's recommendation and supported denial of the request.

Mr. Altenburg also agreed with staff's findings. He stated that the subject property's characteristics were generally similar enough to other properties that the request would not meet this required variance standard. He also stated that the applicant's request created the hardship. Mr. Altenburg supported denial of the request.

Mr. Yoo agreed with Mr. Altenburg's comments but added that the applicant may not have been aware of the real estate market changes that could be attributable to the COVID-19 pandemic. He agreed that the applicant's request was a self-imposed hardship.

NEW BUSINESS

3. BZA #2020-00021

314 Commerce Street

Public Hearing and consideration of Variances to construct a roof deck in the required side and rear yards, and a pergola in the required rear yard; zoned: CD/Commercial Downtown.

Applicant: Rachel DeBaun, representing John and Emily Galer

BOARD OF ZONING APPEALS ACTION, JANUARY 11, 2021: On a motion by Mr. Poretz, seconded by Mr. Perna, the Board of Zoning Appeals denied the variances. The motion carried on a vote of 7 to 0.

Reason:

The Board denied the variances based on the concerns of the neighbor and because a reasonably sized deck is viable by right.

Speakers:

Rachel DeBaun, representative for the applicant, presented the case.

Tim Foley, a resident at 310 Commerce, spoke in opposition of the proposal.

Mr. Perna said the reason for a deck was to access the back yard, which the small setbacks would not impede. He also said he does not think the applicants are unreasonably restricted by the setbacks, and therefore the request does not meet the requirement for variances.

4. BZA #2020-00026

100 Cedar Street

Public Hearing and consideration of a request for a Special Exception to construct an addition in the required side yard setback; zoned: R-5/Single Family.

Applicant: Sarah Dufendach and Alan Kadrofske

BOARD OF ZONING APPEALS ACTION, JANUARY 11, 2021: On a motion by Mr. Yoo, seconded by Ms. Nguyen, the Board of Zoning Appeals approved the special exception subject to all applicable codes, ordinances, staff recommendations and conditions. The motion carried on a vote of 7 to 0.

Reason:

The Board found the proposal met the standards for a special exception as outlined in the staff report.

Speakers:

Christine Done, representative with Sun Designs, presented the case. She included as part of the presentation a letter of support from the neighbor to the immediate West for increasing the size of the proposed dormer.

Mr. Altenburg shared that the property is located within the Rosemont National Register Historic District and acknowledged that the proposed dormers would change the symmetry of

the existing building. However, he stated the Board of Architectural Review Staff recommendations were not binding and in his view the design did not diminish the character of the property or surrounding properties. He concluded that given the modest size of the addition he generally supported approval of the application.

5. BZA #2020-00030
108 Gibbon Street
Public Hearing and consideration of a Variance from the side and rear yard setback, and height requirement; zoned: CL/Commercial Low.
Applicant: Benedict and Carol Capuco, represented by Stephen W. Kulinski

BOARD OF ZONING APPEALS ACTION, JANUARY 11, 2021: On a motion to defer the case to allow the applicants time to revise their application to remove the references of support from the residents at 104 Gibbon Street by Mr. Perna, seconded by Mr. Poretz, the motion to defer failed on a vote of 1 to 6.

On a motion by Mr. Yoo, 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 found the proposal met the standards for variances as outlined in the staff report.

Speakers:

Stephen Kulinski, representative for the applicant, presented the case.

Marianne Talbot, a neighbor at 104 Gibbon, spoke in opposition to the project. She said the application submitted to the BZA was incorrect, as there was a material misrepresentation that they had given verbal support of the plan. Ms. Talbot stated they had never given any type of approval nor had seen plans for a 14-foot balcony. She also said they never received the required notification for the project and therefore the application is not properly before the BZA. She also said they were opposed to the design of the proposal as it would invade their privacy.

The Board asked staff to confirm if the application was allowed to be before them since it stated that the residents at 104 Gibbon were in support and they now say they did not give support. The Board also asked staff to confirm if the proper notification had been sent. Mary Christesen said the applicants had met the notification requirements by law and that they are not required to show their most affected neighbors their plans before submitting an application.

Staff confirmed the applicant properly sent their required notification; however, USPS tracking showed the letter had not been delivered to the residents at 104 Gibbon. Tony LaColla said the applicants had met their legal requirements and the fact that the residents at 104 Gibbon had submitted a letter and were at the meeting shows that the noticing worked.

Ben Caputo, the subject property owner, said they had sent a variation of the designs to neighbors in an email on October 24, 2020. He said they had conversations with the Talbots and the Talbots had said they were supportive of the general design in the past and that the Talbot's opposition to the balcony and dormers was surprising at this time. He said they also sent an email to neighbors on December 20, 2020 with a full design package asking for support.

Mr. Yoo said he found the application to be reasonable because the building is so far set back on the property and because the proposal does not exceed the existing height of the building. He said it meets the standards for a variance as it is a unique property and building location. He also said the residents at 104 Gibbon Street clearly received adequate notice since they were present at the meeting.

OTHER BUSINESS

6. Election of Board Officers for Chair, Vice Chair and Secretary.

BOARD OF ZONING APPEALS ACTION, JANUARY 11, 2021: Mr. Yoo nominated Mr. Altenburg for Chair, Mr. Perna nominated Mr. Yoo for Vice Chair and Mr. Yoo nominated Mr. Perna for Secretary. On a motion by Mr. Waclawski, seconded by Mr. Poretz, the Board of Zoning Appeals voted to approve the slate. The motion carried on a vote 7 to 0.

MINUTES

7. Consideration of the minutes from the December 14, 2020 Board of Zoning Appeals Hearing.

BOARD OF ZONING APPEALS ACTION, JANUARY 11: On a motion by Mr. Perna, seconded by Mr. Chan, the Board of Zoning Appeals approved the minutes as submitted. The motion carried on a vote of 7 to 0.

ADJOURNMENT

8. The Board of Zoning Appeals hearing was adjourned at 9:20 p.m.