



Minutes
Board of Zoning Appeals
February 22, 2016
Council Chambers, City Hall
Fredericksburg, Virginia

MEMBERS PRESENT

Helen P. Ross, Chair
Jay Jarrell III, Vice-Chair
Beatrice Paolucci
Matthew Muggeridge
Richard Conway, Alternate

MEMBERS ABSENT

Brian Raska

STAFF

Mike Craig, Zoning
Administrator
Kathleen Dooley, City
Attorney
Phaun Moore, Secretary

Ms. Ross called the meeting to order at 4:00 p.m.

OPENING REMARKS

Ms. Ross determined that a quorum was present and public notice requirements had been met.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Ms. Ross asked if any Board member had engaged in *ex parte* communications on any item before the Board. No one indicated they had participated in any *ex parte* communications.

DISCLOSURE OF CONFLICTS OF INTEREST

Ms. Ross asked if any Board member had any conflicts of interest on any item before the Board. No one indicated that they had any conflicts of interest.

APPROVAL OF AGENDA

There were no additions or changes to the agenda.

Ms. Paolucci made a motion to accept the agenda as presented. The motion carried unanimously.

PUBLIC HEARING ITEMS

1. VAR 2015-02: General Washington Executive Center, LLC – (Owner) requests a Variance from City Code § 72-31.5.B., which states that multi-family units in the R-12, Residential zoning district must maintain a minimum of 18 feet in width. The requested variance would permit twelve 14 foot, 6 inch wide multi-family units at 2217 Princess Anne Street (GPIN 7779-89-7284). 2217 Princess Anne Street is zoned C-H, Commercial Highway.

Residential use in the C-H, Commercial Highway zoning district is regulated by the R-12, Residential zoning district dimensional standards. The property is currently used as office space.

Mr. Craig presented his case.

The applicant's attorney, Charlie Payne, presented the variance request for General Washington Executive Center, LLC.

James McGhee, the architect, gave a presentation of the proposed project.

The Board of Zoning Appeals members asked questions.

Public comment:

- Susan Pates – 2010 Fall Hill Avenue spoke in opposition.

The Board discussed the variance request.

Ms. Dooley commented that the case was not being heard in the right forum. She said that the case was not a variance application; it should be a rezoning request that goes through the Planning Commission and City Council.

Ms. Paolucci made a motion to deny the application based on Items 1, 2 and 8 from the attached Record of Decision – Conclusions of Law. **Item 1** – The applicant has not carried its burden of proof that the proposed variance meets the definition of a variance in Code of Virginia 15.2-2201. Specifically, the proposed variance is from a regulation of the width of multi-family units. It does not regulate the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure. **Item 2** – The Strict application of the terms of the zoning ordinance would not unreasonably restrict the use of the property. **Item 8** – The relief sought by the applicant is available through a zoning map amendment process, specifically, by an application for PD-MU zoning as shown on the 2015 Comprehensive Plan). Ms. Ross seconded. The motion carried unanimously.

REVIEW OF MINUTES

Ms. Paolucci made a motion to approve the meeting minutes from November 16, 2015 as presented. Mr. Jarrell seconded. Motion carried unanimously.

Mr. Conway made a motion to approve the meeting minutes from January 5, 2016. Ms. Paolucci seconded. Mr. Jarrell abstained as he was not present for the January 5, 2016 meeting. The motion carried 3-0-1.

STAFF / BOARD COMMENTS

Mr. Craig informed the Board that there was potential for a meeting on March 21, 2016.

Ms. Paolucci asked for an update on the circuit court case for APP 2015-01.

Ms. Dooley said there had been no action on the court case.

Mr. Conway asked for clarification on the Planning Commission's recommendation.

Mr. Craig said the Planning Commission had discussed the Variance application and recommended that the BZA deny the request.

ADJOURNMENT

Ms. Paolucci made a motion to adjourn. Mr. Conway seconded.

Meeting adjourned at 5:02 p.m.

Helen P. Ross, Chair

CITY OF FREDERICKSBURG BOARD OF ZONING APPEALS

VARIANCE APPLICATION 2015-02
GENERAL WASHINGTON EXECUTIVE CENTER
2217 PRINCESS ANNE STREET

RECORD OF DECISION

The City of Fredericksburg Board of Zoning Appeals heard the above-referenced appeal at its meeting on February 22, 2016. After consideration of the record of the appeal, the Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

- A. The subject property is identified as 2217 Princess Anne Street, in Fredericksburg, Virginia, or GPIN 7779-89-7284. The applicant is the owner of the property.
- B. The property is approximately 2.8 acres in size, with relatively flat topography and no sensitive environmental features relevant to this application.
- C. The property is zoned Commercial Highway (C-H).
- D. The property is improved with two buildings, the General Washington Executive Center, and a building identified as "Building C."
- E. The General Washington Executive Center is currently used for general office, and Building C is currently used for medical office. Both uses are permitted by-right in the CH Zoning District.
- F. Building C is a two story cinderblock building, constructed in 1950, located on the southern portion of the lot, at the corner of Princess Anne Street and Hunter Street. Building C is approximately 12,200 square feet, with an "L" shape. The current units in Building C are one-story units with no interior vertical integration (stairways).
- G. The C-H zoning regulations permit residential development, but require that it shall conform to R-12 zoning district dimensional standards. (City Code §72-32.4(C).) The R-12 zoning district dimensional standards are set forth in City Code §72-31.5(B), including a requirement that multi-family residential units shall maintain a minimum width of 18 feet. The dimensional standard for multifamily residential units was adopted in 1984.
- H. Applicant proposes to convert Building C to multifamily residential use. Twelve of the proposed multifamily residential units are proposed to be 14' 6" in width and two-story. The remaining units are proposed to meet or exceed the 18 foot width requirement.

- I. The proposed conversion of Building C to multi-family residential use presents the applicant with design challenges and multiple design options.

CONCLUSIONS OF LAW

1. The applicant has not carried its burden of proof that the proposed variance meets the definition of a variance in Code of Virginia 15.2-2201. Specifically, the proposed variance is from a regulation of the width of multi-family units. It does not regulate the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure.
2. The strict application of the terms of the zoning ordinance would not unreasonably restrict the use of the property.
3. The applicant has not carried its burden of proof of an undue hardship that is due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance. The applicant's claim of an undue hardship is grounded in the design issues that are typical when an older building is converted to a new use; or specifically, when a two-story, sixty-year old office building with one-story units is proposed for conversion to multi-family residential use with two-story units. The basis of the application is the applicant's elective design choice for the project.
4. The applicant acquired the property in good faith.
5. The applicant has not carried its burden of proof with respect to the impact of the granting of the variance on adjacent properties and nearby properties in proximity to the project. In the case of this particular application, which involves multiple design options, this inquiry would be better suited to the legislative process.
6. Building C is one of several ageing two-story buildings in the CH Zoning District that could be redeveloped into multi-family units. Structural challenges encountered during any potential renovation of these buildings will be of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning ordinance.
7. The granting of the variance would not result in a change of use that is not otherwise permitted on the property or a change in the zoning classification of the property.
8. The relief sought by the applicant is available through a zoning map amendment process, specifically, by an application for PD-MU zoning as shown on the 2015 Comprehensive Plan.

DECISION

The Fredericksburg Board of Zoning Appeals denies variance application 2015-02.

Date: _____

FREDERICKSBURG BOARD OF ZONING APPEALS

By: _____

Helen P. Ross, Chair