



Minutes
Board of Zoning Appeals
October 21, 2019
Council Chambers, City Hall
Fredericksburg, Virginia

MEMBERS PRESENT (Absent)

Frank Reyes, Chairman
Jay Jarrell III, Vice Chairman
Stephen Eubank
Dr. Roy Gratz
Matthew Muggeridge

STAFF

James Newman, Zoning Administrator
Cathy Eckles, Secretary

Chairman Reyes called the meeting to order at 4:30 p.m. and did a roll call.

PUBLIC NOTICE REQUIREMENTS

Chairman Reyes determined that a quorum was present, and asked if public notice requirements had been met. Mr. Newman stated that public notice requirements had been met.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Chairman Reyes asked if any Board member had engaged in *ex parte* communications on any item before the Board. No one indicated that they had participated in any *ex parte* communication.

DISCLOSURE OF CONFLICTS OF INTEREST

Chairman Reyes asked if any Board member had any conflicts of interest on any item before the Board. There were no disclosures.

APPROVAL OF AGENDA

Dr. Gratz motioned to approve the agenda as presented. Mr. Muggeridge seconded. The motion carried 5-0.

PUBLIC HEARING – New Business

- A. VAR2019-05, Mayo Carter**, requests a Variance from the Code § 72-42.3, for 424 Hanson Avenue (GPIN 7870-60-6163) in the R-4 Residential Zoning District.

Presentation by Staff

James Newman, Zoning Administrator, presented the staff report and a power point presentation (Attachment A). Mr. Newman noted staff has received seven letters in support of this variance from adjoining property owners and staff recommends approval.

Applicant was present but had no comments. Mr. Muggeridge asked about the adjacent properties 5' setbacks and how they encroached. Mr. Newman said after reviewing the aerial photos some of the properties (specifically 420 and 428 Hanson Avenue) were actually on the property line or perhaps a few feet in. Discussion ensued regarding the adjoining properties and maneuverability for utility work crews. Mr. Jarrell asked how the City determined this was a non-conforming use. Mr. Newman stated the applicant came in to obtain a permit for the garage and stated the slab was already there but the contractor had not obtained a permit. Further discussion ensued regarding the lack of a permit for the slab.

Public Comment

No public comments.

Board Comments & Questions

The Board of Zoning Appeals (BZA) discussed the application and questioned staff and the Applicants.

Mr. Muggeridge moved to approve the variance application as submitted. Mr. Jarrell noted he was troubled agreeing to grant this variance since the condition was caused by applicant. Mr. Muggeridge noted that applicant would have wanted this variance. Mr. Jarrell stated that if the variance had been requested prior to the slab being poured, no hardship would exist so would not grant the variance. Mr. Gratz seconded Mr. Muggeridge's motion. Chairman Reyes called for a vote. **Motion carried 4-1** (Jarrell, no).

B. VAR2019-06, David Dickerson, requests two Variances from the Code § 72-42.2.B.3 and § 72-42.3 for 104 St. Paul Street (GPIN 7778-58-9853) in the R-4 Residential Zoning District.

Presentation by Staff

James Newman, Zoning Administrator, presented the staff report and a power point presentation (Attachment B). Mr. Newman noted staff has received two letters in support of this variance from adjoining property owners and staff recommends approval.

Applicant was present but had no comments.

Public Comment

No public comments.

Board Comments & Questions

The Board of Zoning Appeals (BZA) discussed the application and questioned staff and the Applicants.

Mr. Eubanks clarified that the lot was non-conforming prior to this request for a variance. Mr. Newman said yes. Mr. Muggeridge asked what was behind the property. Mr. Newman said this was Telegraph Hill. Mr. Muggeridge asked if this was open space required for Telegraph Hill but Mr. Newman was unsure.

Discussion ensued regarding the rear yard being more than 30% occupied. Mr. Newman explained the rear setbacks and how that affects the percentages, and that occupied means

by a structure. Mr. Newman further discussed the current text amendment being considered by Council wherein in-ground pools will no longer be considered structures as they do not block light, air, or sightlines.

Mr. Jarrell questioned the normal 5' setback requirement for accessory structures. Mr. Newman said that if more than 30% of the rear yard is occupied than it changes to the 18' setback.

Mr. Jarrell questioned the purpose for the requirements. Mr. Newman stated this keeps property owners from building out the rear space to the maximum. Mr. Jarrell clarified that due to the shed preexisting the ordinance, it doesn't count; and with the new text amendments, in-ground pools will no longer count toward the percentages. Mr. Newman said yes to both.

Mr. Jarrell moved to approve the variance application as submitted. Mr. Muggeridge seconded.

Chairman Reyes called for a vote. **Motion carried 5-0.**

PUBLIC COMMENTS

No public present.

STAFF / BOARD COMMENTS

Mr. Newman noted that there will be no November or December meeting.

ADJOURNMENT

Chairman Reyes adjourned the meeting at 5:13 p.m.

Efrain Reyes, Chairman