



**Minutes**  
**Board of Zoning Appeals**  
September 16, 2019  
Council Chambers, City Hall  
Fredericksburg, Virginia

**MEMBERS PRESENT (Absent)**

Frank Reyes, Chairman  
Jay Jarrell III, Vice Chairman (Absent)  
Stephen Eubank  
Dr. Roy Gratz  
Matthew Muggeridge  
Tom O'Toole, Alternate

**STAFF**

James Newman, Zoning Administrator  
Cathy Eckles, Secretary

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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**

Mr. O'Toole motioned to approve the agenda as presented. Mr. Muggeridge seconded. The motion carried 5-0.

**PUBLIC HEARING – New Business**

**VAR2019-04, Jennifer and Kirsten Talken-Spaulding**, request a Variance from the Code § 72-31.3, for 3207 Normandy Avenue (GPIN 7779-49-5649) 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).

### Public Comment

Applicant Jennifer Talken-Spaulding, 3207 Normandy Avenue (currently residing at 2102 Caroline Street) was present, as was her spouse, Kirsten Talken-Spaulding.

Jennifer stated she had some answers to questions they could not answer in July 2019. Applicants did not previously ask for side setbacks because they were seeking the standard R4 setbacks. Applicants researched whether a 25' front setback would work and discovered it was not enough. Applicant explained they are asking for an additional 3 feet to make the project work. Applicants discussed the support they have from the neighbors.

No public comments.

### Board Comments & Questions

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

Mr. O'Toole asked Mr. Newman for clarification about the various front yard setbacks and the two properties that encroach into the allowable setback line. Mr. Newman explained this was prior to the variance came into effect.

Mr. O'Toole questioned Applicants about the automobile sketch on pg. 6 of 12 of the Variance Application showing the setbacks and what setbacks allow the car door to open. Applicants discussed how the variance is necessary to construct the garage and how denial of the variance will affect them financially if they have to modify the building.

Mr. Muggeridge asked staff if granting Applicants the 22' front setback would create a new number with which to calculate average setbacks. Mr. Newman said yes. Mr. Muggeridge clarified that there is no rule that a variance doesn't subsequently affect the calculation of the average. Mr. Newman agreed, if this setback is granted it will change the "average". Mr. Johnston noted that the purpose of the provision is to ensure that whatever is developed falls into neighborhood character. If this variance is approved, the neighborhood character does change.

Mr. Eubank asked for clarification that if the variance is granted, future calculations would be based on the 22' front setback and that this is what is meant by a neighborhood character change. Mr. Newman said yes.

Mr. Muggeridge asked for clarification about the utilities. Applicant stated that if the variance is not approved, possible changes to the design would cause the utilities to have to be moved resulting in \$100,000 worth of extra costs.

Dr. Gratz asked for clarification regarding the design drawings on pg. 5 of 12 in the variance application. Applicant explained the red line shows the BZA July 2019 approved design; the blue line shows how only a 25' front setback affects the design, and the green line shows what is currently being requested. Further discussion ensued regarding the placement of the walls and doors.

Dr. Gratz asked staff about administrative modifications and granting a 10% waiver without having to file for a zoning variance. Mr. Johnston stated that an administrative modification

is for established setbacks, not a requested zoning variance. The Board granted a specific 25' front setback variance and so it is not in the staff's purview to modify that.

Mr. O'Toole questioned what options Applicants have if the Board denies the variance. Mr. Newman stated Applicants could appeal to the Circuit Court.

Chairman Reyes called for a vote. Mr. O'Toole motioned that the front yard setback variance request be denied as recommended. Mr. Eubanks seconded. **Motion carried 3-1-1** (Gratz, no; Reyes-abstain).

Mr. O'Toole motioned that the side yard setback variance request be approved as recommended by staff. Mr. Eubanks seconded. **Motion carried 4-0-1** (Reyes-abstain).

### **PUBLIC COMMENTS**

No public present.

### **APPROVAL OF MINUTES**

- a. July 15, 2019 – Discussion ensued regarding a clerical error of Commissioners instead of Board members. Mr. O'Toole motioned to approve with the corrections noted, Dr. Gratz seconded. Unanimous approval 5-0.
- b. August 19, 2019 – Mr. O'Toole motioned to approve, Dr. Gratz seconded. Motion passed 4-0-1 (Reyes abstained).

### **STAFF / BOARD COMMENTS**

None.

### **ADJOURNMENT**

Chairman Reyes adjourned the meeting at 5:10 p.m.

  
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Efrain Reyes, Chairman

