

The Board of Zoning Appeals regular meeting of the Town of Front Royal, Virginia was held on June 21, 2022, at 7 pm.

CALL TO ORDER:

Vice Chairman Williams called the Board of Zoning Appeals, June 21, 2022, meeting to order at 7:00 pm.

ROLL CALL – DETERMINATION OF QUORUM

Present: Michael Williams, Vice Chairman
Christine Erin
Amanda McCarthy
Andi Robinson

Absent: Cody Taylor

Staff: Lauren Kopishke, Director of Planning / Zoning Administrator
John Ware, Deputy Zoning Administrator

APPROVAL OF MINUTES

- March 15, 2021

Ms. McCarthy moved, seconded by Ms. Erin to approve the minutes as written.

There was no discussion.

VOTE: Yes – Erin, Williams, McCarthy
No – N/A
Absent – Taylor
Abstain – Robinson

VOICE VOTE

OTHER BUSINESS

- **2299143** - Variance of 175-44.C.1 of the Town of Front Royal Zoning Ordinance submitted by RK Holdings d/b/a Rural King Front Royal to permit an above ground propane storage tank.

Mr. Ware explained the Applicant was seeking a Variance to install an above ground liquid propane re-filling station. Staff denied the applicants initial zoning application because Town Code Section 175-44 C.1. states no flammable or explosive liquids, solids or gases shall be stored in bulk above ground; provided, however, that tanks or drums of fuel directly connecting to energy devices, heating devices or appliances located on the same lot as the tanks or drums of

the fuel are excluded from this provision. The application was denied based on what is allowed in the C-1 Zoning District.

BZA member asked if the BZA had anything to do with the fact the property is located in the floodplain. Mr. Ware responded the BZA does have a say however for the C-1 Zoning District, above ground storage tanks are not allowed for the use the applicant intends.

BZA member asked if any other business in the area had been granted a variance to install above ground tanks. Mr. Ware stated he was not aware of any granted variances for this type of request.

BZA member referred to the tanks at Southern States and asked what the difference was between Southern States and Rural King. Mr. Ware said Southern States was located in the C-2 Zoning District and it fell under miscellaneous in the C-2 Zoning District which is the same provision in the C-1 Zoning District. Southern States may have been granted a variance when they applied at that time. Ms. Kopishke explained this section of the Zoning Ordinance did not take affect until June 22, 2015. The tank at Southern States predates this section of the ordinance and they may not have needed a variance at that time.

Vice Chairman Williams visited Southern States and was told those tanks were installed in 1999 before it was Southern States. He expressed concern with the tanks at Southern States and if they were to apply for a variance currently they would need to install a concrete block elevated to specific standards to not be a concern for buoyancy and this is not the case with the current installation. This property is located in the floodway. The tank is currently anchored to cinderblocks which he does not think is anchored to the property. Ms. Kopishke explained that if Southern States comes to the Town to do any renovation or change the way the tank is anchored they will get the same response from staff that it is not permitted and would be required to be placed underground. The BZA hears several different types of variances or appeals. It is the job of the BZA to determine the strict application of the chapter. Would the requirements of Chapter 175-44.C.1 produce an undue hardship on Rural King. That such hardship is not generally shared by other properties in the same zoning district and the same vicinity. Does that mean that other businesses nearby or in the same zone, are they allowed to do it but this one wasn't. The authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by granting of the variance. The criteria listed in Chapter 175-139 gives the BZA a checklist stating the grounds for the BZA to grant a variance.

Mr. Ware clarified that the applicant is not appealing the decision of staff but asking for a variance to be granted. Ms. Kopishke voiced they are asking for relief from this ordinance. They are asking that you waive the requirements of this ordinance and allow them to install an above ground tank.

Staff confirmed the applicant was notified of the BZA meeting but did not attend.

Vice Chairman Williams opened the public hearing.

There were no speakers. Vice Chairman Williams closed the public hearing.

Vice Chairman Williams referred to the BZA class he had taken and expressed concern of individuals that were allowed to do things and then it became to where they questioned why they had a zoning ordinance if variances are repeatedly granted. Rural King is not the only place that sells propane tanks. If the BZA allows a variance for this it will open the door to many others requesting a variance for this type of thing. If the BZA denies the variance request they can provide the applicant an alternative which would be to bury the tank. BZA member asked if a propane tank could be buried in the floodplain. Mr. Ware explained the applicant would have two (2) options in the floodplain. 1) Bury the tank underground and be anchored. Do a load calculation on the buoyancy and size of the tank to determine the size of the concrete at the base of the anchoring system; or 2) Raise the area in front of Rural King on a pad above the base flood elevation which the elevation certificate by the land surveyor would determine what the flood elevation is. They could build a pad there that would be anchored to the pavement then the tank on top of that would be anchored to the concrete pad. For safety they would place bollards around the tanks.

Ms. Robinson expressed that the application is ill prepared and presented for someone who wants to have a variance.

Ms. Erin questioned if maybe the applicant wanted to try this and see if it is cost saving for them to receive the variance and if not then spend the money to bury the tank. Ms. Kopishke said they would need to bury the tank or not have it.

Mr. Ware advised that the applicant could bury the tank by-right and would need to comply with the floodplain regulations.

Vice Chairman Williams stated for the record he would like to require the applicant to bury the tank.

Vice Chairman Williams moved to deny the variance based on the fact they have other plausible and applicable options that have been presented to them to be able to have the tank.

Vice Chairman Williams asked for clarification from Ms. Kopishke for the wording of the motion. Ms. Kopishke described the appropriate wording.

Vice Chairman Williams moved, seconded by Ms. Robinson to deny application 2200143 after due notice and hearing as required by the Code of Virginia 15.2-2204 and Section 175.139 of the Town of Front Royal Zoning Ordinance based on the following Board findings. The strict application of the terms of the chapter does not effectively prohibit or unreasonably restrict the use of the property.

There was no additional discussion.

VOTE: Yes – Erin, Williams, McCarthy, Robinson
No – N/A
Absent – Taylor
Abstain – N/A

VOICE VOTE

ADJOURNMENT

Ms. Robinson moved, seconded by Ms. Erin to adjourn the meeting.

VOTE: Yes – Erin, Williams, McCarthy, Robinson
 No – N/A
 Absent – Taylor
 Abstain – N/A

VOICE VOTE

The meeting adjourned at 7:23 pm

Approved by the Board of Zoning Appeals
Date: October 18, 2022