

**BOARD OF ZONING APPEALS
TOWN OF FRONT ROYAL, VIRGINIA**

April 21, 2020

**Regular Meeting
Via WEBEX at www.frontroyalva.com/meeting**

CALL TO ORDER:

Chris Brock called the meeting to order at 7:00 PM acting as the temporary Chair for the election of officers since this was the first meeting of the year.

Chairman Sealock was unable to attend the meeting. Vice Chairman Gedney will conduct the meeting.

ROLL CALL:

Present: David Gedney, Vice Chairman
Ronald Flores
Tamar Yager
John Hensley

Absent: Wayne Sealock, Chairman

Staff: Christopher G. Brock, Interim Director of Planning & Zoning
Alfredo Gutierrez Velasquez, GIS Coordinator
Connie L. Potter, Executive Assistant

ELECTION OF OFFICERS:

Mr. Brock noted that Chairman Sealock requested to have his name submitted for the nomination to remain chairman.

Mr. Gedney opened the floor for the Chairman, Vice Chairman and Secretary.

Mr. Hensley moved, seconded by Mr. Flores for Mr. Sealock to remain as Chairman.

**VOTE: Yes – Gedney, Flores, Yager, Hensley
Absent – Sealock**

Mr. Gedney stated he was ready to resume if that is how the Board sees it.

Mr. Hensley moved, seconded by Ms. Yager for Mr. Gedney to remain Vice Chairman.

**VOTE: Yes – Gedney, Flores, Yager, Hensley
Absent - Sealock**

The next nomination was for Secretary.

Mr. Hensley moved, seconded by Vice Chairman Gedney to continue with Connie (Potter) as Staff Secretary.

**VOTE: Yes – Gedney, Flores, Yager, Hensley
Absent – Sealock**

APPROVAL OF MINUTES:

- November 19, 2019

Mr. Hensley moved, seconded by Mr. Flores to approve the meeting minutes from November 19, 2019 as is.

**VOTE: Yes – Gedney, Flores, Yager, Hensley
Absent - Sealock**

PUBLIC HEARING:

- **FRBZA-001832-2020**, an application submitted by James North for a variance from Section 175-13.C.2 of the Town Code pertaining to the minimum width at setback line requirements filed in accordance with Town Code 175-139.B for property located at 260 Riverside Drive. The variance would effectively allow the applicant seventy feet (70) lot width. The required lot width for a new single-family dwelling is seventy-five (75) feet. The existing lot is identified by Tax Map Number 20A124 Lot 16. The lot is located within the R-1 Zoning District.

Mr. Brock showed where the lot was located on a visual map.

- Lot is located within the floodplain.
- Lot is zoned R-1 residential low density.
- Statement by Applicant: “Eastern portion of the property narrows less than 5’ choking it off from main parcel. This makes maintenance and access to this portion of the property very limited. The western property line along Crisman Drive is 70’. This is consistent with adjacent properties in the neighborhood.

Town Code Section 175-139.B.2

No such variance shall be authorized by the Board, unless it finds:

- a. That the strict application of the chapter would produce undue hardship.
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- c. That 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 the granting of the variance.

Town Code does not allow two houses on a single lot in the R-1 Zoning District. In order for the applicant to construct a dwelling fronting on Crisman Drive, the property would require a subdivision. If the variance is granted the subdivision would be subject to the requirements of Section 148-400 minor subdivision and the requirements of 175-128 nonconforming lots.

Chris read into the record a letter received for public input.

Email submitted by Donna Magalis. "Good Afternoon Ms. Potter, As an adjacent property owner, we have received the notification for the Front Royal Board of Zoning Appeals public hearing on Tuesday, April 21, 2020 via teleconference with regard to the application submitted by James North for a variance for the property located at 260 Riverside Drive. Based on the information received, it is our understanding that the portion of the parcel where the variance is being requested fronts Crisman Drive. While we do not believe the request will have a direct impact on our property if that is the case, we do have concerns of how it will affect the neighborhood overall. We wish to preserve the feel of the neighborhood which consists of older homes (some historic such as Riverside) and, should the property be subdivided, we would be against any residential structure that did not comply or fit in with the surrounding homes. Additionally, we would be against a standalone, non-residential structure such as a large garage or large storage shed(s) be constructed on the property. Sincerely, Brian and Donna Magalis, 272 Riverside Drive, Front Royal, VA 22630."

This was the only comment received from the notifications that were sent out.

Mr. Hensley said he was curious the type of residence Mr. North is going to put on the property and asked if he had considered the affect it may have on 1344 Crisman Drive with the driveway.

Mr. North explained he had met with Mr. Camp in the past and in order for him to get a variance they would have to comply with a nonconforming lot. The size of the house would have to be of the median size of the surrounding properties and would have to be in the same character as the overall subdivision. Currently they are trying to remodel the old existing house.

Mr. Hensley moved, seconded by Mr. Flores to grant the lot width variance requested of five feet (5') contingent to the subdivision of the property into two lots with one lot having a lot width at the setback line of seventy feet (70'). Granting the variance based on undue hardship, being that there are access barriers to the property and usefulness of the property without the variance.

VOTE: Yes – Gedney, Flores, Yager, Hensley
Absent – Sealock

The variance was granted for Mr. North.

- **FRBZA-001877-2020**, an application submitted by Aaron Hike for a variance from Section 175-112 filed in accordance with Town Code 175-139.B for property located at 714 Parkview Drive, to decrease required side yard setbacks and lot width for Townhomes. Town Code 175-112 B.2.A requires a lot width of forty feet (40'), and Town Code 175-112 B.3.C requires a side yard setback of twenty feet (20'). The lot is identified by Tax Map Number 20A717 Lots 9 and 10. The property is located within the R-3 Zoning District.

Mr. Brock reviewed the variance request.

The applicant made the following statements in the variance request:

- Fronting townhomes on Parkview Drive will be more aesthetically pleasing and will substantially reduce costs and make the project possible.
- Applicant said when the lot was purchased, they were under the impression that based on the recorded plat the lot width was sufficient for allowing 6 townhomes.
- After being surveyed the lot is actually 2 feet 5 inches short of the required width.
- They had purchased the property based on six (6) units. With only five (5) units the development may not be feasible.

Staff requested that Mr. Hike do a boundary line adjustment with the neighbor or do a land swap along with adjusting placement of the townhouse unit. Currently the applicant does not have a clearly demonstrated hardship based off the financial statement.

Planning & Zoning received two letters for public comment through email. Mr. Brock read the letters for the record.

The first letter is from Don Burke. "DTSR, LLC owns 734 Parkview and is going to sell to the renter, but he doesn't want the side yard any closer to him or he does not want to buy it. We do not want sideline altered at all. When we built the townhouse, we had to follow the side yard guidelines."

The second letter is from Robert & Sheila Smith. "Upon receiving this letter April 17th after 3:00 pm, I have been gathering my thoughts for a response. My family built our home on Parkview Drive in 1976 and moved in two days before our son's 2nd birthday, forty-six years ago. Two neighbors (one now deceased, and the other has since moved away). The others have always shared the same sense of a quiet neighborhood environment. We are all for progress, but that number (5) townhouses and parking spaces are too many for our street. We do not wish to have that many people as neighbors and the additional traffic (our street now is used as a short cut through town). We already feel like the traffic pattern is like interstate 495 and there are only 6

houses built on it now. We ask that you do not grant a variance for this request.” Robert & Sheila Smith.

Vice Chairman Gedney felt the variance application request was due to financial hardship. There is not anything unique as far as shape, but simply a business decision the applicant feels is creating a hardship.

Mr. Hensley agreed with Vice Chairman Gedney.

Mr. Brock commented that a hardship cannot be based solely on financial reasons.

Vice Chairman Gedney opened the public hearing.

Mr. Rodriguez explained when they originally got the plat for the property, they were at 160’ width.

Mr. Hike said they bought the property based on the original plat. We ran our numbers and purchased this property based on six (6) townhomes. The way it pencils out for them is that the more townhomes on the property, the more you can spread the fixed cost of the purchase price of the property. They are worried about the market dropping due to the current COVID environment. If they cannot get the six (6) they will probably have to let it sit. He feels the market is getting ready to turn and it cannot work with five (5). Mr. Hike also mentioned that the intent of the townhomes would be for workforce housing.

Additional discussion was held with the applicants, staff and the BZA members.

Vice Chairman Gedney said he thought the BZA was reaching to try and find a reason to grant the variance. He believes this is a business investment. He referred to Mr. Hike saying it may not be feasible to do 5 and be more profitable to do 6. There is nothing here forcing him other than a financial motive. If he chooses not to develop, that is entirely his decision. We are not hearing anything unique that would keep him from putting something on the property.

Ms. Yager agreed with Vice Chairman Gedney.

Mr. Flores stated he could see the hardship. Mr. Hike bought the lot in good faith and then finds out he can build 5 instead of 6 townhomes. For him that is a hardship.

Mr. Hensley said he was on the fence. Obviously, he could cut down to 5 and have no problem. Financial hardship does not lead to hardship that is defined.

Mr. Brock explained that the reason townhouses require a 10’ setback on end units is to allow for an easement that goes around the property. This is why a total of 20’ setback will be required.

Vice Chairman Gedney asked for a motion.

Ms. Yager moved, seconded by Vice Chairman Gedney to deny the request because there is not a demonstrable hardship.

Mr. Brock explained that because Chairman Sealock was absent they would need to have a unanimous vote to pass.

**VOTE: Yes – Gedney, Yager
No – Flores, Hensley
Absent - Sealock**

Mr. Brock stated the motion did not pass because it was not unanimous.

Mr. Hensley said Mr. Hike is the property owner and we are not necessarily talking about a corporate entity that is coming in and building 6 townhomes. This is a gentleman that is trying to develop a plot of land and we are talking about 2.6 feet that realistically we can keep the 10' on each side if situated correctly. We have a shortage of home ownership opportunities in Front Royal. If we can add, if for our own benefit, a contingency of these being sold to home buyers that will use it as their primary residence then it would at least give us the satisfaction of feeling like affordable housing was added to the community. It also increases tax revenue and he thinks that is important to understand. As far as a hardship, certainly it would be if the gentleman says the project goes belly up if they don't get 6 units, then there is a hardship not only on that gentleman but there is a hardship on the community not having 6 new affordable units and there is a hardship on the tax revenue on those 6 affordable units. You will then have a property that is sitting vacant, potentially go up for sale again and be sold to the next person.

Vice Chairman Gedney expressed that it is currently generating the tax revenue that it has generated for I do not know how many years.

Mr. Hensley stated that his opinion was still that there is a hardship on the property owner not being able to develop the property and a hardship on the community by not getting new units added. If we are going to be more progressive and adapting to the new normal that our society needs, then we have to be more progressive with the variance request.

Vice Chairman Gedney questioned if it was there job to be more progressive. Our mission is pretty cut and dry. If they can demonstrate a clear hardship, something that is unique to this property that makes it virtually impossible to do without then this would be a hardship, however he can do 5 units.

Ms. Tamar asked if this could be tabled.

Mr. Brock asked the Assistant Town Attorney to speak on this.

George Sonnett, Assistant Town Attorney explained that the posture we are in would require a decision at this meeting unless the applicant withdraws the application.

Mr. Hensley asked for clarification as to why they needed a unanimous vote.

Mr. Brock explained the reason to BZA members as mentioned previously.

Mr. Hensley moved, seconded by Mr. Flores to grant the variance request based on what the applicant submitted to the Town for 2.4 feet but allow the lot width at 37.6 feet and the minimum setback at 19.6 feet due to the undue hardship of not being able to complete the project, understanding that it is not shared generally by other properties and its not a substantial detriment to adjacent properties or change the character of the district.

VOTE: Yes – Flores, Hensley

No – Gedney, Yager

Absent - Sealock

Mr. Brock said that it was a tie vote, not a unanimous vote so the application fails.

OTHER:

Ms. Yager expressed that the BZA minutes were tool long and that we should just have to record the actions. The word for word is very hard and unnecessary. We can vote or wait a session.

Mr. Sonnett said it should go on an agenda for a future meeting.

ADJOURNMENT:

Ms. Yager moved, seconded by Mr. Hensley to adjourn the meeting.

VOTE: Yes – Gedney, Flores, Yager, Hensley

Absent – Sealock

The meeting adjourned at 8:37pm

Connie L. Potter

Connie L. Potter
Executive Assistant