



BOARD OF ZONING APPEALS REGULAR MEETING AGENDA

Town Council Chambers
765 Lynn Street, Herndon, VA 20170

Thursday, October 24, 2024 | 7:00 PM

1. Call to Order

2. Approval of Minutes

- a. September 26, 2024, Board of Zoning Appeals Regular Meeting Minutes

3. Comments

- a. Comments from the Staff Members
- b. Comments from the Board Members
- c. Comments from Citizens

Members of the public may, for one 3-minute period, provide public comments, requests, consent or general item comments, and comments on matters not included on the agenda.

4. Public Hearing

- a. BZA #24-004, 641 Nash Street - Appeal of a Zoning Administrator's Decision. An appeal of the Zoning Administrator's decision issued on July 30, 2024, declaring the Town Plan SLDP #23-03 to be withdrawn, pursuant to Section 780-153.1(c)(2), submittal of revised application and time limit for resubmission.

5. Adjournment



Board of Zoning Appeals Regular Meeting **Agenda Item 2.a.**

Agenda Item: September 26, 2024, Board of Zoning Appeals Regular Meeting Minutes

Meeting Date: October 24, 2024

Category: Approval of Minutes

Prepared by: Aaron Zoellick, Clerk of Boards and Commissions

Description:

This is a request to approve the September 26, 2024, Board of Zoning Appeals regular meeting minutes.

Background:

N/A

Budget Impact:

N/A

Legal Impact:

Recommendation:

Recommend approval, as presented.

Attachments:

1. 09.26.2024 Board of Zoning Appeals Regular Meeting Minutes



HERNDON BOARD OF ZONING APPEALS
Regular Meeting Minutes
Thursday, September 26, 2024

1. Call to Order

Chair Pierce called the September 26, 2024, Board of Zoning Appeals meeting to order at 7:00 p.m. in the Herndon Council Chambers Building, 765 Lynn Street, Herndon, Virginia. In attendance were: Chair Carilyn Pierce, Vice Chair Stevan Porter; and Board Members Stephanie Frye, Yung Kim, and Stephen Mundt.

Staff present during the meeting: Kirstyn Barr Jovanovich, Acting Deputy Town Manager; Lauri Sigler, Deputy Town Attorney; and David Stromberg, Zoning Administrator.

Chair Pierce determined there was a quorum with all members present.

2. Approval of Minutes

a. August 22, 2024, Board of Zoning Appeals Regular Meeting Minutes

Board Member Mundt motioned to approve the August 22, 2024, Board of Zoning Appeals regular meeting minutes. Motion seconded by Board Member Frye. The question was called on the motion, which was approved by a 4-0-1 roll call vote. Board Members Frye, Kim, Mundt, and Vice Chair Porter voted "Aye." Chair Pierce abstained.

3. Comments

a. Comments from the Staff Members

No comments were offered.

b. Comments from the Board Members

No comments were offered.

c. Comments from Citizens

No comments were offered.

4. **Public Hearing**

Chair Pierce stated that there had been a request for a continuance by the attorney representing the appellant in application BZA #24-004, 641 Nash Street - Appeal of a Zoning Administrator's Decision and recognized Ms. Sigler to provide more information on the request.

Ms. Sigler provided information on the request for the continuance and requested that the Board consider amending the agenda to move the item to be the first item under Public Hearings.

Board Member Mundt made a motion to amend the agenda to move Item 4b, BZA #24-004, 641 Nash Street - Appeal of a zoning Administrator's Decision, to the first public hearing item. The motion was seconded by Board Member Kim. The question was called on the motion, which was approved by a 5-0 roll call vote. Board Members Frye, Kim, Mundt, Vice Chair Porter, and Chair Pierce voted "Aye."

b. BZA #24-004, 641 Nash Street - Appeal of a Zoning Administrator's Decision. An appeal of the Zoning Administrator's decision issued on July 30, 2024, declaring the Town Plan SLDP #23-03 to be withdrawn, pursuant to Section 780-153.1(c)(2), submittal of revised application and time limit for resubmission.

Certifications of Publications from the Editor of the Fairfax County Times Newspapers were filed, showing that notices of the following public hearing item were duly advertised in the September 6 and September 13, 2024, issues.

Chair Pierce recognized Vice Chair Porter and Board Member Mundt to read their disclosure statement related to BZA #24-004, 641 Nash Street - Appeal of a Zoning Administrator's Decision. They indicated that they are able to participate in the discussion and consideration of the appeal fairly, objectively, and in the public interest. The disclosure statement has been recorded in the Town Attorney's Office.

Chair Pierce recognized Ms. Sigler to provide information on the applicant's request for a continuance. Ms. Sigler stated that the applicant's attorney requested a continuance of the appeal to the October 24, 2024, Board of Zoning Appeals, which has been agreed to by the parties. Ms. Sigler stated that, should the board approve the continuance, the public hearing will not be opened and no testimony will be taken this evening. As the item has been publicly advertised, the Board must take action to continue the item.

Vice Chair Porter asked whether the continuation would in any way inhibit the board's ability to make a determination in the future.

Ms. Sigler stated that the case would be heard in full if it is going forward next month.

Chair Pierce recognized Mike McFarlane, attorney representing the applicant. Mr. McFarlane stated he requested the continuance as the parties work to resolve the issues.

Vice Chair Porter made a motion to continue the public hearing to October 24, 2024. The motion was seconded by Board Member Mundt. The question was called on the motion, which was approved by a 5-0 roll call vote. Board members Frye, Kim, Mundt, Vice Chair Porter, and Chair Pierce voted "Aye."

Chair Pierce stated that the Deputy Town Attorney has explained that the applicant's attorney requested, and the Town Attorney and Zoning Administrator have agreed, to continue BZA #24-004, 641 Nash Street - Appeal of a Zoning Administrator's Decision to the October 24, 2024, Board of Zoning Appeals regular meeting.

- a. **BZA #24-005, 1119 Burwick Drive, to seek a variance from Table 78-21(f), Features Allowed Within Required Setbacks and Yards, to allow an addition to the existing single-family residence.**

Certifications of Publications from the Editor of the Fairfax County Times Newspapers were filed, showing that notices of the following public hearing item were duly advertised in the September 6 and September 13, 2024, issues.

Chair Pierce opened the public hearing and called on the Clerk to administer the oath for the Zoning Administrator. Ms. Jovanovich administered the oath to Mr. Stromberg.

Mr. Stromberg presented the staff report and presentation dated September 26, 2024, which is on file with the Department of Community Development. Mr. Stromberg stated that this is a request for a variance from Section 78-21(f), Features Allowed Within Required Setbacks and Yards, to allow an addition to the existing single-family residence. The required rear yard setback is 18 feet and the existing residence is located approximately 18 feet from the rear property line. The existing deck is located approximately 9 feet from the property line. The applicant is requesting to cover 12 feet of the existing rear deck to create a covered, screened-in porch of 108 square feet. Mr. Stromberg stated that the staff recommends granting the variance with the condition that the maximum encroachment of the roof is 9 feet from the rear façade of the house.

There was discussion among the board members and staff on this item, including: (1) clarification if this is the only clustered development within the town; and (2) clarification if there are any conditions limiting the screened-in porch from being

converted to an addition to the house.

Ms. Jovanovich administered the oath to the applicant, M. Theresa Yacoub, 1119 Burwick Drive, Herndon VA.

The applicant provided comments supporting staff's recommendation and explained why they wanted to enclose their porch.

There was discussion among the board members, staff, and the applicant on this item whether the applicant was supportive of the condition recommended by staff limiting the maximum encroachment of the roof to 9 feet from the rear facade of the house. The applicant confirmed that they are okay with the condition.

Chair Pierce stated that no other members of the public, other than the applicants, were present at the meeting to provide public comment on this item.

Chair Pierce closed the public hearing.

Board Member Mundt motioned to approve the resolution to grant Variance Application BZA #24-005, 1119 Burwick Drive. The motion was seconded by Board Member Frye. The question was called on the motion, which was approved by a 5-0 roll call vote. Board Members Frye, Kim, Mundt, Vice Chair Porter, and Chair Pierce voted "Aye."

5. New Business

a. Resolution to establish the Board of Zoning Appeals meeting schedule for January 1, 2025, to December 31, 2025

Chair Pierce recognized Dave Stromberg, Zoning Administrator, to present the item.

Mr. Stromberg presented the proposed Board of Zoning Appeals meeting schedule for January 1, 2025, through December 31, 2025.

Board Member Mundt motioned to approve the resolution to establish the Board of Zoning Appeals meeting schedule for January 1, 2025, through December 31, 2025, as presented. The motion was seconded by Board Member Kim. The question was called on the motion, which was approved by a 5-0 roll call vote. Board members Frye, Kim, Mundt, Vice Chair Porter, and Chair Pierce voted "Aye."

6. Adjournment

There being no further business, and without objection, Chair Pierce adjourned the

September 26, 2024 Board of Zoning Appeals meeting at 7:41 PM.

Agenda Item: BZA #24-004, 641 Nash Street - Appeal of a Zoning Administrator's Decision. An appeal of the Zoning Administrator's decision issued on July 30, 2024, declaring the Town Plan SLDP #23-03 to be withdrawn, pursuant to Section 780-153.1(c)(2), submittal of revised application and time limit for resubmission.

Meeting Date: October 24, 2024

Category: Public Hearing

Prepared by: David Stromberg, Zoning Administrator

Description:

An appeal of the Zoning Administrator's decision issued on July 30, 2024, declaring Town Plan SLDP #23-03 to be withdrawn, pursuant to Section 78-153.1(c)(2), submittal of revised application and time limit for resubmission.

Background:

This item was scheduled to be heard at the September 26, 2024, Board of Zoning Appeals public hearing. The appellant's attorney requested a continuance on this item in order to pursue a settlement agreement with the Town Attorney's office regarding pending litigation. The Board granted the continuance. The appellant's attorney has requested a second continuance in order to continue working towards a settlement agreement. The zoning administrator does not oppose this continuance request. If approved, this item will be continued to the November 21, 2024, Board of Zoning Appeals public hearing. The full staff report and supporting documents can be found in the September, 26, 2024, Board of Zoning Appeals meeting agenda packet.

<https://herndonva.portal.civicclerk.com/event/158/files/report/812>

Budget Impact:

N/A

Legal Impact:

Recommendation:

Approve the continuance request to the November 21, 2024, public hearing.

Attachments:

1. Legal Ad

Town of Herndon, Virginia Notice of Public Hearing

Notice is hereby given that the **Board of Zoning Appeals (BZA)** of the Town of Herndon, Virginia, will hold a public hearing on Thursday, October 24, 2024, at 7:00 p.m. in the Herndon Council Chambers Building, located at 765 Lynn Street, Herndon on the following item:

BOARD OF ZONING APPEALS, BZA #24-004, 641 Nash Street – Appeal of a Zoning Administrator’s Decision. An appeal of the Zoning Administrator’s decision issued on July 30, 2024, declaring Town Plan SLDP #23-03 to be withdrawn, pursuant to Section 78-153.1(c)(2), submittal of revised application and time limit for resubmission. The 10,194 square-foot lot is located at 641 Nash Street, on the southeast corner of Nash Street and Spring Street. The property is zoned R-10, Single Family Residential. Fairfax County Tax Map Number 0162 02 0139. Appellants and property owners: Francis Kenney Jr. and Caitlin Kenney. **(Continued from the September 26, 2024, regular meeting).**

The public is encouraged to participate in the town’s public hearing process. Individuals having an interest in the above item are invited to attend the public hearing and state their opinions and may also submit comments to bza@herndon-va.gov. The proposed item is available for review by the public on the town’s website www.herndon-va.gov.

The Town of Herndon supports the Americans with Disabilities Act by making reasonable accommodations for persons with disabilities, so that they may participate in services, programs, or activities, offered by the town. Please call (703) 435-6804 to arrange for any accommodation that may be necessary to allow participation.

Amanda Morrow Kertz, Acting Town Clerk

Note to Publisher:

Publish on October 4/October 11, 2024

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