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BOARD OF ZONING APPEALS
Thursday
November 21, 2019

The Board of Zoning Appeals of the Town of Herndon, Virginia, met in public hearing on November 21, 2019 at 7:00 p.m. in the Herndon Council Chambers Building, 765 Lynn Street, Herndon, Virginia. In attendance were: Vice Chair Jay Donahue and Board Members: Clark Hedrick, Cari Lyn Pierce and Jeffrey Sevila. Chairman, Yung Kim was absent.

Others present during the meeting: Lauri Sigler, Deputy Town Attorney; David Stromberg, Zoning Administrator; Sharmane Baynard, Community Inspector and Erika Orellana, Clerk to the Board of Zoning Appeals.

Vice Chair Donahue called the meeting to order at 7:00 p.m., with four members present and Vice Chair Donahue presiding.

1. DETERMINATION OF QUORUM

For the record, the clerk called the roll, four members present, which constituted a quorum.

ANNOUNCEMENT

Vice Chair Donahue announced that Chairman Kim would not be present at the public hearing.

2. APPROVAL OF MINUTES

June 27, 2019
Public Hearing

On motion of Board Member Sevila, seconded by Board Member Hedrick, the minutes of the Thursday, June 27, 2019 public hearing were approved by a vote of 4-0. The vote was: Board Members Hedrick, Pierce, Sevila and Vice Chair Donahue voting "Aye." Chairman Kim was absent.

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3. COMMENTS FROM THE BOARD MEMBERS

There were no comments from the Board Members.

4. COMMENTS FROM THE STAFF

David Stromberg, Zoning Administrator formally introduced Lauri Sigler, Deputy Town Attorney to the Board. Mr. Stromberg reminded the Board that there will be a meeting on January 23, 2020 to vote for the Chairman and Vice Chair for the upcoming year.

5. COMMENTS FROM THE AUDIENCE

There were no comments from the Audience.

PUBLIC HEARING

- 6. BZA #19-03 – APPLICATION FOR AN APPEAL OF A ZONING ADMINISTRATORS DECISION.** Descriptive Summary: An appeal of the Zoning Administrator's decision issued on August 19, 2019 (ZE19-00231), where a notice of violation was issued for window signs in violation of Section 78-140 (SIGNS) of the Town of Herndon Zoning Ordinance. An appeal was filed with the Town of Herndon Community Development Department on September 13, 2019. The subject property is located at 458 Elden Street and zoned PD-B, Planned Development – Business. Fairfax County Tax Map Number: 0162 24 B. Property Owner: Parcel B Limited Partnership. Appellant: Gustavo Pohl, Waku Chicken.

Certificates of Publication were filed from the Editor of the *Fairfax County Times Newspapers*, showing that notices of said public hearing had been duly advertised in the November 8 and November 15, 2019 issues.

Vice Chairman Donahue opened the public hearing.

Vice Chairman Donahue asked the clerk to give the oath to David Stromberg, Zoning Administrator, and Sharmane Baynard, Community Inspector. Both Mr. Stromberg and Ms. Baynard were sworn in.

Vice Chairman Donahue recognized Mr. Stromberg to present the staff report and asked if there were any preliminary matters to be reviewed first. Mr. Stromberg announced that the staff had contacted the appellant to see if the Town needed to provide a translator. The Appellant confirmed that he was comfortable moving forward with the public hearing. Appellant confirmed.

Mr. Stromberg presented the staff report dated November 21, 2019, which is on file in the Department of Community Development.

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Sharmane Baynard, Community Inspector, provided testimony to the Board explaining what she had witnessed on August 16, 2019 at the Herndon Shopping Center, where Waku Chicken is located.

The staff recommendation is to Affirm the Zoning Administrator's decision and uphold the Notice of Violation ZE19-00231.

Vice Chairman Donahue asked the Board Members if there were any questions for Mr. Stromberg. There were no questions by the Board Members for Mr. Stromberg.

Vice Chairman Donahue asked Lauri Sigler, Deputy Town Attorney if she had any questions for Mr. Stromberg. Ms. Sigler indicated that she did not have any questions for Mr. Stromberg.

Vice Chairman Donahue asked the Board Members if there were any questions for Ms. Baynard. There were no questions by the Board Members for Ms. Baynard.

Vice Chairman Donahue asked Ms. Sigler if there were any questions for Ms. Baynard. There were no questions by Ms. Sigler for Ms. Baynard.

Vice Chairman Donahue asked the clerk to give the oath to the appellant, Gustavo Pohl. Mr. Pohl was sworn in.

Mr. Pohl, appellant, presented his case for appeal. Mr. Pohl provided the Board with pictures of his establishment at night. The pictures have been provided to the Clerk and entered into the record.

Vice Chairman Donahue asked if there were any questions of the Zoning Administrator from the Board Members.

Board Members asked questions of the Zoning Administrator.

Vice Chairman Donahue called comments from the audience.

There were no comments from the audience.

Vice Chairman Donahue closed the public hearing and moved to Board level for discussion.

Vice Chair Donahue invited the appellant to provide a rebuttal. Mr. Pohl then provided his rebuttal to the Board.

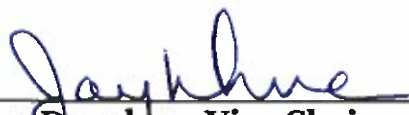
On motion of Board Member Sevila seconded by Board Member Hedrick and carried by a vote of 4-0, the Board moved to **AFFIRM** the Zoning Administrator's decision and

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uphold the Notice of Violation ZE19-00231. The vote was: Board Members Hedrick, Pierce, Sevila and Vice Chairman Donahue voting "Aye." Chairman Kim was absent.

7. ADJOURNMENT

There being no further business, the meeting adjourned at 7:45 p.m.



**Jay Donahue, Vice Chairman
Board of Zoning Appeals**



**Erika Orellana
Clerk to the Board of Zoning Appeals**

Minutes approved by the Board of Zoning Appeals: January 23, 2020