This does not represent a verbatim transcript of the Board of Zoning Appeals meeting. Visit www.herndon-va.gov "agendas & minutes" to view agendas and videos. Copies of videotapes of the public hearing meetings are available on request by contacting HCTV at 703-689-2323.

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**BOARD OF ZONING APPEALS**
**Thursday**
**August 27, 2020**

Pursuant to Virginia Code Virginia Code Section 2.2-3708.2, as amended. The Governor's Executive Orders, as amended, and in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended. Chairman Kim has stated that the August 27, 2020 Board of Zoning Appeals public hearing will be by electronic means. The meeting was broadcast and recorded through Cisco WebEx and details for the meeting were made available to the public on Friday, August 21, 2020. In attendance were: Chairman Kim, Vice Chair Jay Donahue and Board Members: Clark Hedrick, Cari Lyn Pierce and Jeffrey Sevila. Board Member Clark Hedrick arrived at 7:18 p.m. Due to technical difficulties Chairman Kim left the meeting at 7:32 p.m and returned at 7:41 p.m.

Others present during the meeting: Lauri Sigler, Deputy Town Attorney; David Stromberg, Zoning Administrator; Fermina Rochac, Deputy Community Inspector, Erika Orellana, Clerk to the Board of Zoning Appeals and Donna Linton, Court Reporter.

**STAFF ANNOUNCEMENTS**

Erika Orellana, Clerk to Boards and Commissions, stated that the Board of Zoning Appeals public hearing held its first virtual meeting. The Clerk to the Boards and Commissions welcomed those listening and encouraged the public to provide comments for the record at BZA@herndon-va.gov.

Ms. Orellana stated, for the record, that:

- The Board of Zoning Appeals public hearing that evening was conducted electronically Virginia Code Virginia Code Section 2.2-3708.2, as amended. The Governor's Executive Orders, as amended, and in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended.

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- Proper notice of the electronic meeting was provided in accordance with Section 2.2-3708.2 of the Code of Virginia, along with information for viewing the meeting and submitting comments for the record;
- The agenda and meeting materials are available on the town's website;
- Electronic meetings will begin with a roll call and determination of quorum; and
- All votes, including adjournment, was by roll call vote.

## OPENING REMARKS BY THE DEPUTY TOWN ATTORNEY

Deputy Town Attorney, Lauri Sigler, stated the following for the record:

The current state of emergency arising from the novel coronavirus (COVID-19) pandemic was declared by Governor Northam on March 12, 2020 and is currently in effect. State law allows local governing bodies and boards to conduct meetings entirely by electronic means in limited circumstances. We are conducting tonight's public hearing pursuant to those limited circumstances and Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended. Town Staff will continue to accept, process and review new applications or materials for business before the Board of Zoning Appeals. The first floor of the Herndon Municipal Center is open to the public during regular business hours and materials may be sent to Staff electronically or via regular mail. The public is also encouraged to visit the Board of Zoning Appeals page on the Town's website for updated information. The Town of Herndon anticipates that the Board of Zoning Appeals meetings will be conducted by electronic means for the near future and Staff will notify this Board, any affected applicants, and the public at-large should conditions change.

Deputy Town Attorney, Lauri Sigler, stated that court reporter Donna Linton was present for the public hearing.

1. **CALL TO ORDER**

### Roll Call

Chairman Kim called the public hearing by electronic means to order at 7:00p.m. and asked Ms. Orellana to call the roll for attendance. All members were present, electronically, with Chairman Kim presiding.

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**DETERMINATION OF QUORUM**

Chairman Kim stated, for the record, that there was a quorum present, virtually, that evening.

**APPROVAL OF MINUTES**

2. **Vote on January 23, 2020**
**Public Hearing Minutes**

On motion of Vice Chair Donahue, seconded by Board Member Sevila, the minutes of the Thursday, January 23, 2020 public hearing were approved by a vote of 5-0. The vote was: Board Members Hedrick, Pierce, Sevila, Vice Chair Donahue and Chairman Kim voting "Aye."

3. **Vote on February 27, 2020**
**Public Hearing Minutes, cancellation**

Chairman Kim announced that there were no minutes for the February 27, 2020 public hearing work as the meeting was cancelled.

4. **Vote on March 26, 2020**
**Public Hearing Minutes, cancellation**

Chairman Kim announced that there were no minutes for the March 26, 2020 public hearing work as the meeting was cancelled.

5. **Vote on April 23, 2020**
**Public Hearing Minutes, cancellation**

Chairman Kim announced that there were no minutes for the April 23, 2020 public hearing work as the meeting was cancelled.

6. **Vote on May 28, 2020**
**Public Hearing Minutes, cancellation**

Chairman Kim announced that there were no minutes for the May 28, 2020 public hearing work as the meeting was cancelled.

7. **Vote on June 25, 2020**
**Public Hearing Minutes, cancellation**

Chairman Kim announced that there were no minutes for the June 25, 2020 public hearing work as the meeting was cancelled.

8. **Vote on July 23, 2020**
**Public Hearing Minutes, cancellation**

Chairman Kim announced that there were no minutes for the July 23, 2020 public hearing work as the meeting was cancelled.

9. **COMMENTS FROM THE BOARD MEMBERS**

There were no comments from the Board Members.

10. **COMMENTS FROM THE STAFF**

David Stromberg, Zoning Administrator, announced to the Board that Ray Ocel, Development Program Planner, has retired.

**PUBLIC HEARING**

11. **BZA #20-01 – APPLICATION FOR A VARIANCE FROM THE REQUIREMENTS OF SECTION 78-30.2(G), DIMENSIONAL STANDARDS.** Descriptive Summary: The applicant is seeking relief from the requirements of this section in order to construct an addition to an existing single family dwelling. A 10-foot side yard setback is required in the R-10 zoning district. The applicant is requesting a reduction of the minimum side yard setback to 6.2 feet. The subject property is a 10,194 square-foot lot located at the southeast corner of the intersection of Nash Street and Spring Street and identified as 641 Nash Street. The property is zoned R-10, single family residential. Tax Map Reference Number: 0162 02 0139. Property Owner: Francis Kenney, Jr. and Caitlin Kenney.

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 August 14, 2020 and August 21, 2020 issues.

Chairman Kim opened the public hearing and asked the clerk to give the oath to David Stromberg, Zoning Administrator. Mr. Stromberg was sworn in.

Chairman Kim recognized Mr. Stromberg to present the staff report and asked if there were any preliminary matters to be reviewed first. Mr. Stromberg stated that there were no preliminary matters and proceeded with his presentation.

Mr. Stromberg presented the staff report dated August 27, 2020, which is on file in the Department of Community Development.

The staff recommendation is to approve the variance application with the following conditions:

1. The footprint of the proposed addition shall be in substantial conformance with the Lot Plan prepared by George M. O'Quinn of Dominion Surveyors Inc, sealed on October 7, 2019 and revised through May 13, 2020.
2. The encroachment into the side yard setback is limited to the northwest corner of the addition as shown in the Lot Plan referenced in condition 1.
3. The eastern wall of the proposed addition shall be no closer than 6.2 feet from the eastern property line.
4. Any future or proposed additions not shown on the Lot Plan must comply with the setback requirements of the R-10 zoning district and are not permitted to encroach into the side yard setback.

Mr. Stromberg informed the Board that if the application is approved, condition #2 would need to be amended to stated, "The encroachment into the side yard setback is limited to the northeast corner of the addition as shown in the Lot Plan referenced in condition 1."

Mr. Stromberg informed the Board that there were comments from the public that were received and entered into the record.

Chairman Kim called on the Board Members individually for questions to Mr. Stromberg.

Vice Chair Donahue asked Mr. Stromberg for clarification if this application has the criteria needed to approve a variance.

Chairman Kim asked for clarification on encroachment and if the Board had authority to make a decision on it.

Mr. Stromberg answered in the affirmative for both questions.

Chairman Kim recognized the applicants for their comments.

Chairman Kim asked the clerk to give the oath Francis Kenney, Jr. and Caitlin Kenney, applicants. Mr. & Mrs. Kenney were sworn in.

Due to technical difficulties Chairman Kim left the meeting at 7:32 p.m and returned at 7:41 p.m.

Vice Chair Donahue recognized the applicants for their comments.

Francis Kenney, Jr. and Caitlin Kenney, applicants provided their comments.

Vice Chair Donahue asked the Board Members for questions to the applicants Francis Kenney, Jr. and Caitlin Kenney.

Chairman Kim recognized the public for comments on this item.

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The following individual provided comments:

- Amelia Fine-Morrison

There were brief comments and questions by the Board for Francis Kenney, Jr. and Caitlin Kenney, applicants.

Deputy Town Attorney, Lauri Sigler informed Chairman Kim would need to proceed with public hearing from his point. Chairman Kim proceeded with public hearing.

Chairman Kim invited the Zoning Administrator to provide rebuttal. Mr. Stromberg did not have a rebuttal to provide to the Board.

Chairman Kim invited the applicants to provide rebuttal. Francis Kenney, Jr. and Caitlin Kenney then provided their rebuttal to the Board.

Chairman Kim closed the public hearing and moved to Board level for discussion. There was a brief discussion by the Board.

On motion of Vice Chair Donahue, seconded by Board Member Hedrick and carried by a vote of 5-0, the Board moved to **approve** the variance with conditions, amended condition #2 , the encroachment into the side yard setback is limited to the ~~northwest~~ northeast corner of the addition as shown in the Lot Plan referenced in condition 1. The vote was: Board Members Hedrick, Pierce, Sevila, Vice Chair Donahue and Chairman Kim voting "Aye."

**ADJOURNMENT**

There being no further business, the meeting adjourned at 8:05 p.m.

**Yung Kim, Chairman**
**Board of Zoning Appeals**

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

**Minutes approved by the Board of Zoning Appeals: January 28, 2021**