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BOARD OF ZONING APPEALS
Thursday
May 23, 2019

The Board of Zoning Appeals of the Town of Herndon, Virginia, met in public hearing on May 23, 2019 at 7:00 p.m. in the Herndon Council Chambers Building, 765 Lynn Street, Herndon, Virginia. In attendance were: Chairman, Yung Kim, Vice Chair Jay Donahue and Board Members: Cari Lyn Pierce and Clark Hedrick. Board Member Jeffrey Sevila was absent.

Others present during the meeting: Lesa Yeatts, Town Attorney; David Stromberg, Zoning Administrator; and Erika Orellana, Clerk to the Board of Zoning Appeals.

Chairman Kim called the meeting to order at 7:00 p.m., with four members present and Chairman Kim presiding.

1. DETERMINATION OF QUORUM

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

ANNOUNCEMENT

Chairman Kim announced that Board Member Sevila would not be present at the public hearing.

Chairman Kim welcomed the new Board Member, Cari Lyn Pierce, to the Board of Zoning Appeals.

**May 23, 2019
(public hearing)**

2. APPROVAL OF MINUTES

**January 24, 2019
Public Hearing**

On motion of Vice Chairman Donahue, seconded by Board Member Hedrick, the minutes of the Thursday, January 24, 2019 public hearing were approved by a vote of 4-0. The vote was: Board Members Hedrick, Pierce, Vice Chair Donahue and Chairman Kim voting "Aye." Board Member Sevilla was absent.

3. COMMENTS FROM THE BOARD MEMBERS

There were no comments from the Board Members.

4. COMMENTS FROM THE STAFF

David Stromberg, Zoning Administrator, informed the Board that for the record that any public hearing item will still require 3 votes in order to pass even with 4 members present instead of 5 members present. Mr. Stromberg stated that the applicant was informed the previous day.

5. COMMENTS FROM THE AUDIENCE

There were no comments from the Audience.

6. PUBLIC HEARING

BZA #19-02 – APPLICATION FOR A VARIANCE FROM THE REQUIREMENTS OF SECTION 78-21(F), FEATURES ALLOWED WITHIN REQUIRED SETBACKS AND YARDS. Descriptive Summary: The applicant is seeking relief from the requirements of this section in order to construct a 13-foot deep by 23-foot wide rear addition in the required rear yard setback. The zoning ordinance permits additions to encroach into the rear yard setback provided the total width of the addition does not exceed 1/3 of the total width of the primary structure. The total width of the addition allowed by the zoning ordinance is 16.7 feet in width. The applicant is requesting 23 feet in width. The subject property is located at 307 Marjorie Lane and is zoned R-10, single family residential. Tax Map Reference Number: 0171 22 0523. Property Owner: Paul Cella. Authorized Agent: Susan O'Connell. Prince William Home Improvement.

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 May 10 and May 17, 2019 issues.

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(public hearing)**

Chairman Kim opened the public hearing and called on David Stromberg, Zoning Administrator, for the staff report.

Chairman Kim 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 announced that there weren't any preliminary matters to be reviewed.

Mr. Stromberg provided the staff report dated May 23, 2019, which is on file in the Department of Community Development.

Mr. Stromberg directed the Board to look at the television screens where he explained the required setbacks as stated in the zoning ordinance as well as the applicant's proposal.

Mr. Stromberg recommended denial of the variance request.

Chairman Kim asked if any Board members had questions of the Zoning Administrator. There were no questions by any Board members.

Chairman Kim recognized the applicant and property owner, Paul Cella, and asked the Clerk to give the oath. Mr. Cella was sworn in.

Mr. Cella provided his comments in support of his variance request.

Mr. Cella provided an exhibit to the Clerk so it could be entered into the record. The exhibit was also provided to the Board Members.

Chairman Kim asked if there were any questions for the applicant from the Board Members.

Vice Chair Donahue, Chairman Kim, and Board Member Pierce asked Mr. Cella questions.

Vice Chair Donahue asked questions of the Zoning Administrator.

Chairman Kim called comments from the audience. There were no comments from the Audience.

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

Main Motion

(FAILED)

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(public hearing)**

- Vice Chair Donahue moved approval of BZA #19-02, based on the findings stated in the recitals of Exhibit #2 of the staff report, which are as follows, that the granting of the variance would alleviate an undue hardship due to a physical condition relating to the property or improvements thereon due to the following:
 - Not allowing this structure to be built would interfere with the due enjoyment that the homeowner has the right to at his house.

Motion seconded by Board Member Pierce.

There was a brief discussion amongst the Board Members.

Board Member Pierce asked if Vice Chair Donahue's motion could be read back. The Town Attorney responded that there is no ability to read back the motion and the Board would need to rely on the Board Member to restate the motion.

Vice Chair Donahue restated his main motion to approve BZA #19-02, based on the recitals and findings in Exhibit #2 of the staff report, which are as follows, that the granting of the variance would alleviate an undue hardship due to a physical condition relating to the property or improvements thereon due to the following:

- Certain members of the family cannot enjoy the use of the property without the use of the porch. Vice Chair Donahue reiterated that his motion includes the correction to the 1/3 horizontal length in Exhibit #2.

There was a brief discussion amongst the Board Members.

The question was called on the motion, which failed to pass. The vote was 1-3. Vice Chair Donahue voted "aye." Board Members Hedrick, Pierce and Chairman Kim voted "nay." Board Member Sevilla was absent.

New Main Motion

(FAILED)

Board Member Pierce moved approval of BZA #19-02, based on the findings stated in the recitals in Exhibit #2, as follows, the strict application of the ordinance would unreasonably restrict the utilization of the property due to the following reasons:

- The applicant had stated significant health reasons that would be impacted by the denial of the allowance to build the screened in porch in the configuration requested, in conjunction with the impact on the interior spaces of the house and exterior usage, ingress/egress to the house if in a smaller configuration. One other factor is that the footprint of the requested

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screened porch is further from the rear property line and will have a smaller impact on the rear neighbor.

Motion seconded by Vice Chair Donahue.

Chairman Kim called for discussion on the motion and provided comments to the Board. No other Board Members had comments.

The question was called on the motion, which failed to pass. The vote was 1-3. Board Member Pierce voted "aye." Board Member Hedrick, Vice Chair Donahue and Chairman Kim voted "nay." Board Member Sevilla was absent.

New Main Motion

(APPROVED)

- Vice Chair Donahue moved denial of BZA #19-02, based on the findings stated in the recitals in Exhibit #3, which are as follows, that the strict application of the ordinance would not unreasonably restrict the utilization of the property and that the granting the variance would not alleviate an undue hardship due to a physical condition relating to the property or improvements thereon.

Motion seconded by Board Member Hedrick

The question was called on the motion, which passed. The vote was 3-1. Board Member Hedrick, Vice Chair Donahue and Chairman Kim voted "aye." Board Member Pierce voted "nay." Board Member Sevilla was absent.

7. ADJOURNMENT

There being no further business, the meeting adjourned at 7:48 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: June 27, 2019