

STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES
March 22, 2016

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) of Tuesday, March 22, 2016, was called to order with the determination of a quorum at 7:00 p.m. by Chairman Robert Grimes in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Robert Grimes, Steven Apicella, Danny Kim, Ernest Ackermann, Dana Brown, Adela Bertoldi, Heather Stefl, and Robert Gibbons

MEMBERS ABSENT: Dean Larson

STAFF PRESENT: Melody Musante, Susan Blackburn, and Stacie Stinnette

AWARD PRESENTATION

Mr. Grimes: Tonight, before we get started, the Board would like to recognize and thank Mr. Ingalls for his 25 years of service...

Mrs. Musante: Thirty-five.

Mr. Grimes: Thirty-five... woo! That's even more impressive. Thirty-five years of service he's given to Stafford County and the Stafford County Board of Zoning Appeals. We wish to you the warmest congratulations on your retirement. Mr. Ingalls, if you could come up here please. We'd like to offer that Mr. Ingalls' fair and compassionate approach to applying the (inaudible) of this position have been an example for all of us, his extraordinary insight, integrity, and the knowledge and the history of the County has been invaluable to all of us and will be missed. Again, we'd like to thank you sir.

Applause.

Mr. Ingalls: Y'all will find out that it's not about all this other stuff, it's about the people that you meet and deal with on a regular basis (inaudible).

Applause.

DETERMINATION OF QUORUM

Mr. Grimes: Alright, well good evening ladies and gentleman, and welcome to this meeting of the Stafford County Board of Zoning Appeals. The BZA is a quasi-judicial body whose members are volunteers appointed by the Circuit Court of Stafford County. The purpose of the BZA is to hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator; hear and decide upon requests for Variance from the Zoning Ordinance when a literal enforcement of the ordinance would result in unnecessary hardship to the owners of a property; and hear and decide on requests for Special Exceptions where the Zoning Ordinance allows for Special Exceptions. The Board consists of seven regular members and two alternate members. An alternate member may be called upon to participate when a regular member is unable to hear a case. Let the record reflect that we have a quorum tonight with 7 voting members present. The members present and voting tonight are Mr. Danny Kim, Dr. Ackermann, Mr. Steven Apicella, myself Robert Grimes, Ms. Dana Brown, Ms. Adela Bertoldi, and Mrs. Heather Stefl. Mr. Gibbons is sitting in and listening tonight as an alternate. Mr. Gibbons will be sitting and hearing the case only and will not ask questions and participate in discussions or vote on

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any of the cases tonight unless otherwise directed by the Chair. The County staff is represented tonight by Mrs. Stacie Stinnette, Senior Administrative Associate, Mrs. Melody Musante, the Zoning Manager, and Mrs. Susan Blackburn, the Zoning Administrator. The hearings will be conducted in the following order: the Chair will ask the staff to read the case and the members of the Board may ask questions. One minor departure that I would suggest tonight for the Board members is that since these cases are linked to each other, it is the same owner and a very similar issue in both. I would propose that we listen and hear both cases at once. Everybody agree with that? Wonderful. The Chair shall ask the applicant or their representative to come forward and state their name and address, and present their case to the Board. The presentation shall not exceed 10 minutes unless additional time is granted by the Board. Members of the Board may ask questions of the applicant to clarify or better understand the case. The Chair will then ask any member of the public who wishes to speak in support of the application to come forward and speak. There shall be a 3-minute time limit for each individual speaker, and a 5-minute time limit for a speaker who represents a group. After hearing those in favor of the application, the Chair will ask any member of the public who wishes to speak in opposition to the application to come forward and speak. After the public comments have been received, the applicant shall have 3 minutes to respond. We ask that each speaker present their views directly to the Board and not to the applicant or other members of the public. After the applicant's final response, the Chair shall close the public hearing. After the public hearing has been closed there shall be no further public comments. The Board shall review the evidence presented and the Chair shall seek a motion. After discussion of the motion, the Chair shall call for a vote. In order for any motion to be approved, four members on the Board must vote for approval. In order to allow the Board time for appropriate review, the applicant or the applicant's representative is required to submit relevant material to the Department of Zoning and Planning 10 business days prior to this hearing to be included in the staff report. The Board may accept additional relevant material from the applicant or the applicant's representative during the hearing; however, large amounts of additional material may require a deferral, at the Board's option, on behalf of the applicant to allow the Board time to consider the additional material. Members of the public and/or staff may also submit relevant material during the hearing. The applicant should be aware tonight that we have 7 voting members present, and you must have 4 affirmative votes to approve an application. If you do not think that there are enough members present tonight and will be able to receive a fair hearing, you have the right to defer the hearing until another meeting. However, you may defer the hearing for this reason only once in any 12-month period. Deferral requests are granted at the sole discretion of the Board. The applicant may also withdraw his or her application at any time prior to a vote to approve or deny the application provided that the applicant has not withdrawn a substantially similar application within the previous 12 months. Any person, or persons, who does not agree with the decision of this Board shall have 30 days to petition the Stafford County Circuit Court to review our decision. Also, be aware that the Board will not hear any denied application for a Variance or Special Exception that is substantially the same request for at least one year from the date of our decision. I would now ask that anyone who has a cell phone, pager, or other electronic device to please silence it. Thank you. It is the custom of this Board to require that any person who wishes to speak before this Board shall be administered an oath. Therefore, I ask anyone who wishes to speak tonight to stand and raise your right hand. Do you hereby swear or affirm that all testimony before this Board shall be nothing but the truth?

Response from the audience members: I do.

Mr. Grimes: Thank you. You may be seated. The Chair asks that when you come down to the podium to speak, please give your name and address clearly into the microphone so that our recording secretary can have an accurate record of the speakers. Also, please sign the form at the table in the rear of the room. Thank you. Are there any changes or additions to the advertised agenda?

Mrs. Musante: There are no changes.

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Mr. Grimes: Thank you. Before we hear the first case, does any Board member wish to make any declaration or statement concerning any case to be heard before the Board tonight? Ms. Brown.

DECLARATIONS OF DISQUALIFICATION

Ms. Brown: I just wanted to say that I went out and visited the property that we're hearing tonight this morning around 11 o'clock. I did not speak with anyone. That's it, thank you.

Mr. Grimes: Ms. Bertoldi?

Ms. Bertoldi: I would also to say that I stopped by the property and looked at the property this morning, as well, and did not speak with anybody.

Mr. Grimes: Mrs. Stefl?

Mrs. Stefl: This evening I drove by the property. I did take photos for my personal information and to get a clarity on the property, but I did not speak to the applicant nor did I indicate my presence at the property.

Mr. Grimes: Thank you. Dr. Ackermann.

Dr. Ackermann: I also drove by the property and took a look, but did not speak with anyone.

Mr. Grimes: Anyone else? Great. Thank you. I will now ask the secretary to read the first case, or actually a combination of the two cases.

PUBLIC HEARINGS

1. V16-02/16151116 - Brenda S. Brown - Requests Variances of Stafford County Code, Section 28-35, Table 3.1, "District Uses and Standards," R-1, Suburban Residential Zoning District, (d)(2) "Requirement, Minimum front yard," (d)(4), "Minimum Lot Width," and Section 28-24(8)(a), "Permitted Encroachments," on Tax Map Parcel No. 54F-8A-13. The property is located at 106 East Chatham Street, Chatham Heights Subdivision.
2. V16-03/16151117 - Brenda S. Brown - Requests Variances of Stafford County Code, Section 28-35, Table 3.1, "District Uses and Standards," R-1, Suburban Residential Zoning District, (d)(2), "Requirement, Minimum front yard," Section 28-24(8)(a), "Permitted Encroachments," and Section 28-38(b), "Corner lots," on Tax Map Parcel No. 54F-8A-14. The property is located at 108 East Chatham Street, Chatham Heights Subdivision.

Mrs. Musante: Okay. Case V16-02/16151116; applicant, Brenda S. Brown, requests Variances of Stafford County Code, Section 28-35, Table 3.1, "District Uses and Standards," for the R-1, Suburban Residential Zoning District, (d)(2) "Requirement, Minimum front yard," (d)(4), "Minimum Lot Width," and Section 28-24(8)(a), "Permitted Encroachments," on Tax Map Parcel No. 54F-8A-13. The property is located at 106 East Chatham Street, in the Chatham Heights Subdivision. Case V16-03/16151117; applicant, Brenda S. Brown, requests Variances of Stafford County Code, Section 28-35, Table 3.1, "District Uses and Standards," for the R-1, Suburban Residential Zoning District, (d)(2), "Requirement, Minimum front yard," Section 28-24(8)(a), "Permitted Encroachments," and Section 28-38(b), "Corner lots," on Tax Map Parcel No. 54F-8A-14. The property is located at 108 East Chatham Street, in the Chatham Heights Subdivision. You have the application, Application Affidavit, Exhibit Plat prepared by Aubrey Hawkins dated January 13, 2016, copy of the land card from the Commissioner of Revenue's Office, and copy of subdivision plat dated 1928. The first case, which is V16-02, is requesting variances

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from the front yard setback, permitted encroachments into the required yards, and lot width requirements for Tax Map Parcel No. 54F-8A-13. The plat submitted by Aubrey Hawkins shows the existing single-family dwelling with a front yard setback of 24.1 feet, where the code requires 30 feet, for a difference of 5.9 feet. The front porch, which is an allowable projection into a required yard, is 17.1 feet from the front property line where the Zoning Ordinance allows for 24 feet, for a difference of 6.9 feet. The proposed lot width is 52.75 feet, where the code requires 80 feet, for a difference of 27.25 feet. The applicant is requesting these variances to correct a lot boundary issue and provide a lot for the dwelling. The original subdivision plat for East Chatham Heights was recorded in 1928, which was prior to the County adopting the Subdivision Ordinance and Zoning Ordinance. According to the Commissioner of the Revenue, the single-family dwelling was built in 1945. In 1964, an additional dwelling was built on the property. Staff does not know why these dwellings were constructed straddling the property line. This property was designated as Tax Map Parcel No. 54F-8A-14 for property tax billing purposes. In 1988, upon the owner's request, two tax accounts were created, one for each dwelling, resulting in two tax bills being generated. This information was found on the Commissioner of the Revenue land card. The second case, V16-03, this request is for variances from the front yard setback, permitted encroachments, and street side setback for a corner lot requirement for Tax Map Parcel No. 54F-8A-14. The plat submitted by Aubrey Hawkins shows the existing single-family dwelling 24.3 feet, where the code requires 30 feet, for a difference of 5.7 feet. The front porch, which is an allowable projection into a required yard, is 20.7 feet from the front property line, where the zoning ordinance allows for 24 feet, for a difference of 3.3 feet. The existing single-family dwelling sits 10 feet from the street facing side yard property line, which has a requirement of 25 feet, for a difference of 15 feet. The applicant is requesting these variances to correct a boundary line issue and provide a lot for the dwelling.

Mr. Grimes: Melody, you can include the second part of the case that describes how this occurred.

Mrs. Musante: The current owner inherited this property and, upon researching the deeds, discovered that two lots were involved and the dwellings were located on both. The applicant would like to keep one of the dwellings and sell the other. To do this, a boundary line adjustment can be done to create lots according to the locations of the dwellings. The new lot for this property will not conform to front yard setback, permitted encroachments, and corner lot setback requirements. If the Board of Zoning Appeals grants these variances, a boundary line adjustment plat may be filed for approval in the Planning and Zoning Office and recorded in the Circuit Court Clerk's Office. The new lot configuration and these variances will make the properties more conforming to the zoning regulations.

Mr. Grimes: Are there any questions for staff related to these two cases?

Dr. Ackermann: May I ask?

Mr. Grimes: Yes sir.

Dr. Ackermann: So, it's because you want to get new boundary lines set on these that we have an issue with both houses.

Mrs. Musante: Correct.

Dr. Ackermann: If nothing was done... I mean, if you're not going to make two lots out of it, then there's nothing that Zoning would have an issue with.

Mrs. Musante: Correct. They have to do... they're trying to sell one of the properties and unfortunately the lot line goes through both houses currently. They cannot get clear title through the bank without

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doing the boundary line adjustment. We can't... the County, or the Planning office cannot approve the boundary line adjustment until this boundary line is done.

Dr. Ackermann: Okay. And is there any issue... there's no concerns if they want to rent one of the properties, one of the houses.

Mrs. Musante: No.

Dr. Ackermann: Thank you.

Mr. Grimes: I have just a confirmation more than a question. I believe that this owner, Ms. Brown, has lots 8A-12, 8A-13, and 8A-14 as well? Or should I ask them?

Mrs. Musante: I would ask the applicant please.

Mr. Grimes: Okay, thank you. Yes sir.

Mr. Apicella: Mr. Chairman, a few questions. In changing the boundary lines, is it the intent to flip the lots around so that the lengthwise portion of the lots are facing towards East Chatham Street rather than Monroe Avenue?

Mrs. Musante: That is correct.

Mr. Apicella: Okay. A few more questions Mr. Chairman. I'm trying to understand why this is being pursued as a variance and not some other mechanism, like a Zoning Administrator determination.

Mrs. Blackburn: What do you mean by Zoning Administrator determination?

Mr. Apicella: Why couldn't they have come in and ask for a Zoning Admin... these houses were built before the Subdivision and the Zoning Ordinance and were in place, right?

Mrs. Blackburn: Correct.

Mr. Apicella: So they would presumably be grandfathered as non-conforming uses at this point in time.

Mrs. Blackburn: Correct.

Mr. Apicella: So, again, I'm trying to understand just kind of how the dots are connected in terms of their current status and what they want to do now.

Mrs. Blackburn: The property is considered non-conforming, correct. When you go to rearrange property, you are required to meet current standards. I think if they didn't have... they're main problem, or what I look to see it is they have a property line running through these houses. These houses are straddling the property line. If the two houses were just on individual lots that were small and did not meet the current standards, and were still created at the timeframe they were created, they would not be having a discussion with you at all -- so long as each house was on its own separate lot. But, for whatever reason, these houses were built straddling a lot line and now, to get rid of that lot line, if you just abandoned it or vacated it, you'd have two properties on one lot. So they have to create a lot for each house and that then causes them problems because within these two pieces of property they do not have enough land to meet the current regulations.

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Mr. Apicella: Great, that was a very good explanation, thank you. Just a few more questions just for the purposes of getting in the record and comparing it to similar cases that we've had in the past, do we know who owned the parcels when they were built on?

Mrs. Musante: I do not have that information, but if I recall, and you may address this to the applicant, they were the original owners, or her mother or her family were the original owners.

Mr. Apicella: So it's passed on through the family...

Mrs. Musante: Yes it has.

Mr. Apicella: ... since those houses were built in the 40s and the 60s.

Mrs. Musante: Correct.

Mr. Apicella: Okay. In the absence of an active Subdivision and Zoning Ordinance, what standards can an owner rely upon in building a house?

Mrs. Blackburn: It is my understanding that they... well, when this subdivision was created, it was recorded. I don't know what standards they did use because it was prior to our Subdivision Ordinances. The only thing I can surmise is that there were standards actually in the State Code, that I can give you information later on it; I do not have that now.

Mr. Apicella: But they owned at least two of the parcels that are in front of us today, the original owners, right?

Mrs. Musante: Prior to the Zoning Ordinance and...

Mr. Apicella: I guess what I'm trying to get to is a question about whether or not there was something that would have precluded them from citing the houses the way that they did along the, not the lengthwise portion of the lots, but just for whatever reason along East Chatham Street.

Mrs. Blackburn: I have no idea.

Mr. Apicella: Okay. Were there building permits or occupancy permits or anything like that at the time when these... or similar documents when these homes were built? I'm really trying to get to, again, they've got an affirmative government approval potentially because they built those houses and somebody said it was okay.

Mrs. Musante: We can only assume that they did. I mean, we have tax records back that far that show new house. In later years they documented permit numbers and things like that, but back then they did not. So we can only assume (inaudible).

Mr. Apicella: So, the bottom line is there's nothing in the record and really no way to go dig any deeper to find out that they didn't do something appropriate in this case.

Mrs. Musante: Correct.

Mr. Apicella: Okay. Thank you.

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Mr. Grimes: Any other questions for staff? Hearing none, I'm going to go ahead and open up the public hearing. Will the applicant or his or her representative please come forward to present their case?

Brenda Brown: I'm Brenda Brown and I own 106 and 108 East Chatham Street. And I'm asking for a variance of property lines.

Mr. Grimes: And I understand this is a confusing and somewhat challenging process for you, so we'll try to go through this as best we can so that we can make everybody comfortable with the process here. So we've probably got some questions from the Board about how this property came to be, why it is in the condition it's in right now, and then we can move forward from there. So, I'll kind of start with a couple of quick little questions. You've inherited this property?

Brenda Brown: Yes I did, from my mother and father.

Mr. Grimes: From your...

Brenda Brown: My parents, yes.

Mr. Grimes: Okay. And we're seeing two properties or two lots up here today. Was there a third lot also?

Brenda Brown: There is a third lot that runs back behind.

Mr. Grimes: And that's the lot that's actually kind of in the back yards of these two properties as they're oriented right now.

Brenda Brown: Yes, yes.

Mr. Grimes: Okay. Now, is your intention now is to be able to sell off one of these properties, so you're trying to get the lot lines adjusted so that you can actually get an approved deed and plat and be able to sell one of those, correct?

Brenda Brown: Yes sir.

Mr. Grimes: Okay. What is your... what are you proposing to do with that third lot that's in the back? Is that going to be wrapped up in dividing these into two and that's going to become part of these two?

Brenda Brown: No, that's a lot on its own.

Mr. Grimes: Okay, so your intention is to keep that lot that's in the back on its own.

Brenda Brown: Yes.

Mr. Grimes: Okay. Now, based on the documentation that we've received, it doesn't appear... well, it looks like you've hired Ms. Hawkins to kind of devise a proposed plat for the properties, correct?

Brenda Brown: Yes sir.

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Mr. Grimes: And do we know why or how she determined and set the width of the lot in example for lot 13? Do we understand why the line was drawn where it was drawn, where you decided to split it? Was it simply based on convenience in relation to the home?

Brenda Brown: In relation to the garage of one of the houses.

Mr. Grimes: Okay. So, the intent is then to split lot 13 within, and I'll give you rough distances, within 14 feet or so of the side of the house, leaving the small garage that's presently sitting between the two properties on the corner lot.

Brenda Brown: Yes.

Mr. Grimes: Okay. So, lot 13 would become, I'll call it the most narrow lot of the two, and then the corner lot would be the wider one...

Brenda Brown: Correct.

Mr. Grimes: ... encompass the corner house and the garage that's situated there.

Brenda Brown: Yes sir.

Mr. Grimes: Okay. I don't have any more questions for you but I'm sure some of the other Board members do. So if you don't mind holding on. Is there any other questions for the applicant? Yes Mrs. Stefl.

Mrs. Stefl: Okay, the third lot -- are you planning on developing that or do you want to eventually build on that?

Brenda Brown: I haven't really decided what I'm going to do with it.

Mrs. Stefl: Okay. And then, you currently have the one lot on the market.

Brenda Brown: Yes sir... I mean yes ma'am.

Mrs. Stefl: That's okay.

Brenda Brown: I'm sorry.

Mrs. Stefl: That's fine, don't worry. Have you received any offers?

Brenda Brown: Yes.

Mrs. Stefl: So, depending on our decision, is that contract contingent on our decision or... because you have no, you know, contingent on no kick-out on the listing.

Brenda Brown: Yes.

Mrs. Stefl: So, it is dependent on our decision? Okay. I guess that's all I have for now.

Mr. Grimes: Are there any other questions for the applicant from the Board? Ms. Brown.

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Ms. Brown: When you sell the property, do you live in the one on the corner?

Brenda Brown: I do not.

Ms. Brown: Okay. Because these properties are considered non-conforming, they would not be able to be raised, meaning they can't be torn down with a new house being built.

Brenda Brown: Correct.

Ms. Brown: Okay, I just wanted to make... that was it, thank you.

Mr. Grimes: Mr. Apicella, you have a question for the applicant?

Mr. Apicella: If the variance, I'll call them variances, were approved, what is the outside window for getting the boundary line adjustment taken care of, from your vantage point? Twelve months? Twenty-four months?

Brenda Brown: We'd like it done immediately.

Mr. Apicella: So, you're going to try to get it done within the next year?

Brenda Brown: As soon as possible.

Mr. Apicella: Okay, thank you.

Mr. Grimes: Yes, Ms. Brown.

Ms. Brown: It's my understanding, right now you have an offer on the house and there's a problem clearing title, so you want to get this wrapped up right away from us.

Brenda Brown: Yes ma'am.

Ms. Brown: Okay, thank you.

Mr. Grimes: Any other questions from the Board for the applicant? Is there any member of... Ms. Brown, you may be seated.

Brenda Brown: Thank you.

Mr. Grimes: Is there any member of the public who wishes to speak in support of the application, please come forward? Seeing none, are there any members of the public who wish to speak in opposition of the application please come forward. Seeing none, we'll now close the public hearing for this application and bring the matter to the Board for discussion. Yes, Ms. Brown.

Ms. Brown: I had a question for staff now that we've heard from the applicant. Is that appropriate to ask now?

Mr. Grimes: Sure.

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Ms. Brown: Okay, actually I have two. The garage -- that would be... is that considered a non-conforming structure as well? And the reason I ask, is when I looked around today, it looked like the structure was collapsing. So I wanted to know what, if anything, they would be able to do with that.

Mrs. Musante: No, the garage would be conforming.

Ms. Brown: It would be?

Mrs. Musante: Yes.

Ms. Brown: Okay. And then, my other question, since they are selling the smaller property and it is non-conforming, is this something that would have to be put on the plat so that the new owner would know that they can't go in there and build a new home there that's bigger and better?

Mrs. Musante: The process is, when somebody comes in to develop a property, we check all prior records. It wouldn't necessarily need to be on the plat; we'd like for it to be.

Mrs. Blackburn: The property, if you grant the variance, will no longer be non-conforming.

Ms. Brown: I don't know -- I read all our stuff on variances and it seemed like it would be.

Mrs. Musante: If they wanted to redevelop it.

Ms. Brown: Yeah, if they wanted to tear down the white house and build a bigger house, they would not be able to.

Mrs. Blackburn: Oh, they would have to meet the requirements that you have... would possibly grant tonight. They could come no closer to the property line or anything like that. If this were a house built on lot 12 in the back, it would have to meet the setbacks. That's a non-conforming lot. And they can build a house on there if they can meet the current setback requirements.

Ms. Brown: Well, I was looking at our code. I'm trying to find the exact little passage, but it states in there that even if a variance is granted, that the house is still non-conforming meaning the only way that they could replace that house would be if there was some act of God. I did look that up. And something happened like that, but they couldn't just go in and say well this house is too old and I want a bigger better one, because they wouldn't be able to get the permits because it's non-conforming. And what I read in our code was if there was some kind of act of God, a fire, got hit by lightning, burned down, they would have to build it the same size and footprint.

Mrs. Blackburn: Yes.

Ms. Brown: Okay. So, what my question is, does the new owner... is that going to be on the plat that it's a non-conforming lot so they know this going in or is that just a buyer beware kind of thing?

Mrs. Musante: It's just attached to the parcel. Everything, every Board action, whether it be the Board of Zoning Appeals or Board of Supervisors, is attached to the parcel. And we research that when every application comes in.

Ms. Brown: So, would our decision be on the title report then?

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Mrs. Musante: It would not be on the title report.

Mr. Apicella: Could we make it a condition to put it on the deed?

Mr. Grimes: I believe the deed's a private contract and we wouldn't have no bearing on that.

Mr. Apicella: Right, because we do deed restrictions, or we are aware of deed restrictions.

Ms. Brown: So, does this mean that future buyers could come in and not understand that this lot is... that a non-conforming house on it? Or would they just have to, you know, go to rebuild the house and find out when they come to pull permits that they can't.

Mrs. Musante: Hopefully, before somebody purchases these properties, that they do their due diligence and check with us before they do, and, I mean, we can't...

Ms. Brown: So, but our stuff doesn't show up in the title report then at all?

Mrs. Musante: No.

Ms. Brown: Okay. Hmm. Thank you.

Mr. Grimes: Yes, Ms. Bertoldi.

Ms. Bertoldi: Yes, hi. Okay, so I have... just for clarification, as I'm looking at Attachment 4, page 1 of the first application, 1 of 2, I want to know what... it's kind of hard to read some of, you know, the what exactly the measurements are going to and from. And so, I just want for clarification in the record, so the requirement for R-1 is 30 feet back from the street. Right now 106 is 24.1 and 108 is 24.3. Maybe it's just that I don't have my glasses and I can't see it, but I don't see where on this attachment it says what it's going to end up being from the street. Like, what's it... is it... that's going to probably be the same, right? So then the width of the lot, for 106, is now going to be 52.75; is that correct? And then the corner lot is going to be 92.25, correct?

Mrs. Musante: Correct.

Ms. Bertoldi: Okay. And so the 25 feet requirement for the side yard for the corner is currently 10 and that's also not going to change.

Mrs. Musante: Correct.

Ms. Bertoldi: Okay, so really the only line that matters here is the width. That's the only one that's really going to change, is the width between the two lines. I just want to make sure that nothing else is going to change.

(Inaudible).

Ms. Bertoldi: No, they're not going to. They said they're going to leave it.

Mrs. Musante: The actual change is the line that's going down the center...

Ms. Bertoldi: Right.

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Mrs. Musante: ... the 108.09; that's the new line creating these lot width issues.

Ms. Bertoldi: Right. But that's it, that's the only one that, if we grant the variance, that's the only line that is... all the other lines are going to stay the same.

Mrs. Musante: That is correct.

Ms. Bertoldi: I just wanted for clarification to make sure because there was a lot going on with this to this and this is a requirement and from that to this and that to the other. So I just wanted to make sure.

Mrs. Musante: This is the actual boundary line adjustment. It's ready to go to the Planning Department for review. We're just waiting on this; so technically tomorrow they could submit this boundary line from the surveyor to go. So nothing's going to change.

Ms. Bertoldi: Okay. And I just have... if I can also since I already have the floor here, with respect to the title, I have a question with respect to the title. In their application, maybe it was just the way they worded it. They said they cannot obtain proper title. Is the title not currently in their name? Is it still in the decedents' name? Are they not able to obtain... and maybe that's more of a legal question that's not relevant but I kind of think it is relevant.

Mrs. Musante: Well, I know that the purchaser cannot get title because of the way the situation is currently. That was the issue; not them.

Ms. Bertoldi: The reason why I ask that is, I'm just making sure there's proper standing, because if its title is still in the name of the decedent, then the executor, and maybe it's her, is the only one that can ask for the variance. I'm not sure they would have standing to do that if they don't have title in their name and they're not the executor of the estate.

Mrs. Musante: It is under Brenda S. Brown, because I do the... check the records before.

Ms. Bertoldi: I just wanted to make sure because if we grant something and they don't have standing for that, you know, we could have... and it was the way that they worded the, you know, that I just wanted to make sure.

Mrs. Musante: Sure.

Ms. Bertoldi: And then just for clarification with respect to the title, I don't think we would... you know, and I'm not an expert in this area in Virginia, but I'm not sure we would be able to add something, you know, for future buyers because, one, you would actually be putting a cloud on the title that I don't think that would be appropriate for us to do. But secondly, if you attach the new plat, it is under the obligation of the purchaser and it is also the reason why you buy title insurance, you make sure, you know, you understand what you're buying and that's not, I think, within our guidelines to worry about what future buyers are to do. So I just wanted to say that for clarification in my opinion.

Mrs. Musante: Great, thank you.

Mr. Grimes: I have one thing to ask of the staff. Did you make the owner of these properties aware that that third lot that they inherited is, I won't say not buildable, but almost not buildable given the size of it with the current zoning regulations?

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Mrs. Musante: The lot is considered non-conforming.

Mr. Grimes: Right.

Mrs. Musante: As long as they can meet the zoning requirements on that third lot, they could build on it -
- for setback requirements.

Mr. Grimes: Okay.

Dr. Ackermann: May I ask a question sir?

Mr. Grimes: Yes sir.

Dr. Ackermann: So both houses are currently owned by Ms. Brown.

Mrs. Musante: Correct.

Dr. Ackermann: And when did she get ownership?

Mrs. Musante: It looks like it was put in her name back in 1995.

Dr. Ackermann: And they have been in use since that and if we don't grant this they could continue being
used as they are.

Mrs. Musante: Correct.

Dr. Ackermann: And do we know anything about before that, who owned these two houses?

Mrs. Musante: Her parents.

Dr. Ackermann: Her parents owned both houses and, I'm assuming, rented one, I guess, unless they lived
in separate houses.

Mrs. Musante: I'm not sure.

Dr. Ackermann: Okay. So the... it seems to me it's possible to continue with the current use. The only
issue is, if it's to be sold. Thank you.

Mr. Grimes: Do we have any other discussion with the Board? Hearing none, do we have any motions
for the case in front of us?

Ms. Bertoldi: I will move to grant the variance.

Ms. Brown: I second that.

Mr. Grimes: So we have a motion from Ms. Bertoldi, seconded by Ms. Brown, to grant the requested
variance. Do we have some discussion on this?

Mr. Apicella: Are we doing both at the same time? Are we... okay.

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Mr. Grimes: Yes, I think we are addressing both at the same time, correct?

Dr. Ackermann: Mr. Chair, may I ask for justification please?

Mr. Grimes: Yes.

Dr. Ackermann: Why do you propose that we adopt the variance?

Ms. Bertoldi: I propose that we adopt the variance because, one, the subdivision was recorded in 1928, which was before our building codes. The first house was built in 1945, before our building codes. The second house was built in 1964, before the building codes. For whatever reason it was built with the line right through middle of the houses, which does cloud a title and they cannot sell a house that straddles two pieces of property, because you'd have two owners owning both pieces of property, and it doesn't make sense. It makes it basically, you know, they wouldn't be able to do anything with the property. I mean, it's not like it's where you have one house on one and then you have another house and they just want a larger lot for themselves and a smaller lot, or what have you. I mean, you have two houses that are straddling property and I think this is nothing that they've done. This is... they've inherited the property. There's nothing that they could do, and I think that if there is a case for a variance, and I've read the rules, and I understand how restrictive they are, and I think that if it meets it, those are the reasons why.

Dr. Ackermann: So you feel if we don't grant a variance then they can't use the property?

Ms. Bertoldi: Yes, I mean, I guess if they're going to have everybody live in a house, I mean each of the houses, I mean that's a better question for staff, but it's my understanding that you really can't have houses that straddle two pieces of property.

Ms. Brown: Yeah, I don't believe this was a situation of her own making and she would not be able to move, because she wouldn't be able to sell the property, because there is an adjacent house on the property. So I think this is a hardship that's not something that she created and we need to help her fix.

Mr. Apicella: Mr. Chairman?

Mr. Grimes: Yes sir.

Mr. Apicella: I think these cases, both together, the two variances that were requested tonight, appear different, at least in my opinion, than the prior ones and as much as both houses were built prior to the formal adoption of both the Subdivision and Zoning Ordinance. One party owned both lots and in good faith built on those lots while it might have been expected or perhaps more practical to have a separate house on each lengthwise portion of the lots. For whatever reason, that's the way they were built and the County appears to have allowed them to build it that way. I would also point out that these houses were built 70 and 50 years ago, respectively. Given the time that's passed, it's very unlikely that any more information or details can be obtained or drilled down any further. There's no one we can reach out to from the County to find out what the standards and policies were at those times or why the houses were built the way that they were. It's clear that the boundary line adjustment is to redefine the lengthwise portion of the lots to make them, at least somewhat, more compliant than they are today. When I look at the aerial view of the lots, as well as the surrounding lots, I see many of the same; the surrounding homes have similar front setbacks. So they were allowed to do the same thing at whatever time they were built. I think stopping the owner from selling those houses... again, they already exist, they're not going to be built, they're there right now, under the timing and circumstances they were built, for the duration of time that's passed, again, stopping them from having this variance would potentially deny them the utilization

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of the property which their family members had for decades. And why is it stopping them from utilizing the property? Because they can't sell it. And to me that's a taking, if you can't ultimately sell your property. You can use your property, but you should be able to sell your property. Again, a little bit different than the other set of circumstance, because in that previous case, the property was at least useable and ultimately sellable, even though we denied the variance. In this case, they can't do anything. They're sort of locked in place. And I think that would be unfair. I don't think it's a hardship under the standards of a variance. I think, again, it would deny them utilization of the property ultimately. So, in my view, lack of a resolution here would keep this parcel unsellable forever, until policy changes. So for those reasons, Mr. Chairman, and you know I'm kind of a stickler for the rules, I think these variances should be granted.

Dr. Ackermann: Mr. Chair?

Mr. Grimes: Yes sir, Mr. Ackermann.

Dr. Ackermann: I think staff mentioned something about that we keep these boundaries as they are, that the houses, that if the houses rebuild, you can't get any closer to the road. I mean, when we create the variance, then we're saying these are non-conforming structures in place where they are. So if someone wanted to remodel or extend them, they could not. But do we have to state that in the variance? That these dimensions... or the distance from the house to the road must remain the same? I thought you alluded to that, but maybe I misheard that.

Mrs. Musante: If they remodel, they have to comply with the guidelines or the numbers that you all are approving tonight. So if you approve the variance at whatever it is in here.

Mrs. Blackburn: The only thing that could potentially change is if for whatever reason all the setbacks within the zoning district change, and it is decided it's nothing, you know, that they have zero setbacks and can place it anywhere in the lot they want. That would be the only thing that would change your action tonight.

Dr. Ackermann: So if we vote to approve the variance, then we're approving that these houses may exist in the redefined lots? Or that the lots can be redefined based on where these houses are? Thank you.

Mr. Grimes: Yes, Ms. Brown.

Ms. Brown: I just had one comment. I was researching this and I went to my BZA class information on variances and I did come across a court case that they had in Falls Church, and it stated that granting of a variance did not immunize the owners from the city's regulation that a non-conforming structure cannot be removed or demolished or damaged. And I looked, like I said, into our code, and it talks about similar things, except it does make mention of act of God, but they cannot further encroach in the... you know, if... lost my train of thought here. I'm so sorry about that. The setback, I'm so sorry. So they wouldn't be able to go in there and build another house, unless it was exactly the same, and it was an act of God that took it down. You know, got hit by lightning, the house burned down, and then they'd have to build it to the exact standards that it is currently existing.

Mr. Grimes: Well, not the exact standards, it has to meet the setback requirements that we're going to define if we were to approve this variance. So you can build on that lot, please staff correct me if I'm going in the wrong direction on this, but basically what we're approving, that this house is allowed to sit on this lot 24 feet 1 inch away from East Chatham and that if they chose to remodel it, they could remodel

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it in its exact footprint and rebuild the house, potentially go up, back, whatever it might be, as long as it complies with the setbacks that are approved in the variance and or in the code at the time. Am I...

Ms. Musante: That is correct, yes.

Mr. Apicella: Mr. Chairman, I call the question.

Mr. Grimes: Yes sir.

Mr. Apicella: I call the question so we take a vote.

Mr. Grimes: Oh, I'm sorry. I thought you said you had another question. Ms. Brown was looking like she had another question, so I was delaying for that.

Ms. Brown: Well, I was just looking at our ordinance, but I'll rely on staff... I read it a little differently, but if that's what you think. I'm fine with granting the variance. I'm going to support it either way.

Mr. Grimes: Without any further discussion I would like to go ahead and vote on the motion provided by Ms. Bertoldi and seconded by Ms. Brown. The motion is to approve the requested variances V16-02/16151116 and V16-03/16151117. I'd like to call a vote. Everyone that agrees to... sorry... I have a motion by Ms. Bertoldi and seconded by Ms. Brown to approve the request for the variance stated. All those in favor of the motion signify by saying aye.

Mr. Kim: Aye.

Dr. Ackermann: Aye.

Mr. Apicella: Aye.

Ms. Brown: Aye.

Ms. Bertoldi: Aye.

Mrs. Stefl: Aye.

Mr. Grimes: Aye. All those opposed signify by saying nay. Let the record reflect that the motion is approved 7-0. I'd like to thank the applicant for coming out. The motion is approved. Melody will be reaching out to you to discuss the next steps for you. Thank you.

Brenda Brown: Thank you.

UNFINISHED BUSINESS

Mr. Grimes: Moving on to the next item on the agenda as those are our cases for this evening; Unfinished Business.

Mrs. Stefl: The applicant doesn't have to stay for the rest of the meeting unless you wish to.

Mr. Grimes: No. Any unfinished business?

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Mrs. Musante: No.

Mr. Grimes: Wasn't sure. Next item on the agenda is the Zoning Administrator's Report.

ZONING ADMINISTRATOR'S REPORT

Mrs. Blackburn: Good evening Board members. The only statement... I really don't have a report, but what I am going to tell you is that at the next meeting we are going to bring up the subject of using iPads for our cases again and we will have some documentation on cost savings that it can do for us and that's all I'm going to say.

Mr. Grimes: Thank you very much. The next item on the agenda is the adoption of the meeting minutes from February 23, 2016. Are there any comments or corrections to the minutes from February 23, 2016? Seeing none, I'd like to request a vote for approval of the meeting minutes from February 23, 2016.

ADOPTION OF MINUTES

February 23, 2016

Mr. Apicella: So moved, Mr. Chairman.

Mr. Grimes: Do we have a second?

Ms. Brown: I'll second.

Mr. Grimes: All those in favor to approve the meeting minutes from February 23, 2016 say aye.

Mr. Kim: Aye.

Dr. Ackermann: Aye.

Mr. Apicella: Aye.

Ms. Brown: Aye.

Ms. Bertoldi: Abstain.

Mrs. Stefl: Aye.

Mr. Grimes: Aye. Thank you. The meeting minutes are approved.

OTHER BUSINESS

By-Laws – Inclement Weather

Mr. Grimes: On to the next agenda item, Other Business, By-laws, inclement weather policy. I worked with Melody to come up with a little clause to add in here just so we could formalize a policy as it relates to the weather after the last couple of winters that we've had. We've proposed adding Section 5-10 to the By-laws. I'll go ahead and read it: In the event of inclement weather that requires the closure of the county office buildings, the Board of Zoning Appeals will follow the policy of the Stafford County

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Government (not the Stafford County Public Schools) as announced on radio and television. With regard to early closings, the Board will decide on a case by case basis and contact the public as soon as possible. Any thoughts, discussion on that?

Dr. Ackermann: If I may, is the closing... is there a website where that's announced?

Mrs. Musante: It's posted on the County website as well as we... they do a public notice, a public announcement.

Dr. Ackermann: Maybe we should have that instead of, I mean, just because radio and television might go away some day. I mean, just, you know, as officially announced by the County. Say something like that. I don't know exactly what to say, but...

Mr. Apicella: Say as announced on the radio, television, or as indicated on the County's website? Just kind of keep all the options open.

Dr. Ackermann: I mean, is it... that'll work for a while.

Mr. Apicella: Well, it may be closed and they might not be able to get to fixing the website. You know, who knows, it might be snowing early in the morning and nobody can come in and...

Dr. Ackermann: Well that's, I mean that's, it's just, there's got to be some... I'm just reluctant to limit us to certain technologies.

Mr. Apicella: But it's not. I'm suggesting all three.

Dr. Ackermann: Well no, but even then, then we're limiting ourselves to those three. I mean it'd be nice to write... but you're looking for an official announcement from the County that the County offices are closed.

Mr. Apicella: I hear you, but what other sources... drums? Smoke signals?

Dr. Ackermann: No, but maybe it'd just be text messages.

Mr. Grimes: Right, you could be alerted with a text message, twitter, social media.

Ms. Brown: Yeah, the power could be out. So we have no TV, we have no website. So a text message... how about electronic communication, any form of?

Dr. Ackermann: I mean, any sort of official communication from the County.

Mr. Kim: Can we just keep it as like Section 5-10 says? In the event of inclement weather that requires the closure of the County office buildings, the Board of Zoning Appeals will follow the policy of the Stafford County Government, and it says, as announced on radio and television. If you want to add internet to it, that's cool, but I mean, maybe I'm missing something.

Dr. Ackermann: How about just the policy of Stafford County Government, not the policy of Stafford County Schools period.

Ms. Brown: I'm fine with that.

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Ms. Bertoldi: Yeah, because if you're going to talk about text messages and all that, I doubt that that's an official form of notice, so by saying official form of notice, that would probably exclude text messages, so you probably want to leave out the official form.

Dr. Ackermann: I just think we don't have to say as announced on radio and television.

Mrs. Musante: So just that out?

Ms. Brown: I'm fine with that.

Dr. Ackermann: I'm sure I won't be around for new technologies, but...

Mrs. Stefl: Well, if we followed your logic, you know, we may not even have public education anymore either. Everyone would just be learning at their house.

Dr. Ackermann: No, that's not my logic at all.

Mrs. Stefl: I mean you're forecasting possible technology that will or will not exist, so I could say public schools may not even be in existence.

Ms. Brown: We're not there yet. I had one thing I wanted to...

Mr. Grimes: The beauty is, the By-laws can be revised later.

Ms. Brown: This is just a typo correction; on 4-3 we have a, b, c, e, and f. Maybe we should re-letter those to a, b, c, d, and e.

Ms. Bertoldi: I just have a question. Is the By-laws being revised because at the last meeting we discussed the whole issue of inclement weather or was this done before then? I'm just trying to understand what the policies... I'm new, so I'm just asking about the policies. If there are changes to the By-laws that voting members would like to present, what is that process? Because this seemed to just kind of like pop up. I'm just curious. I mean, I haven't had the opportunity to take the class yet. That's not until September, so I'm just asking the question.

Ms. Brown: I think it came out from the meeting.

Ms. Bertoldi: Because I remember discussing it from the meeting. So that was the only... so if we as a voting member have a question, like say hey, I would like us to discuss some other part of the By-laws and then we can bring that up and then discuss it as a Board?

Mrs. Musante: Yes.

Mr. Grimes: Absolutely, and I think that the idea is that we bring those issues up and allow for the month between the meetings to allow everybody to think about what we're going to be discussing, and then bring it up as a proposal in the next meeting. In this case it was something as simple as inclement weather policy, so I presented some options so that we can actually have some text that we might be able to approve tonight.

Ms. Bertoldi: Right.

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Mr. Grimes: Other issues will probably require more discussion and then a drafting of language that would be circulated among the Board members, agreed upon, and then voted on.

Ms. Bertoldi: I just wanted to make sure, because, if that's the case, since I actually get a voice tonight, after we vote on this I would actually like to discuss something, but I don't want to do it now because that's not probably appropriate for this discussion.

Mr. Grimes: Okay, no, that'll be great.

Mr. Apicella: Mr. Chairman?

Mr. Grimes: Yes.

Mr. Apicella: On 5-10 I wonder if the last sentence says "...with regard to early closings the Board will decide on a case by case basis..." There may be circumstances where you can't convene the Board or can't contact everybody on the Board where you might, the Chairman, might have to make, you know, the final call. I wonder if we want to clarify that?

Mr. Grimes: No, I think that's a great point. I think that we've left it up to certain other decisions to the Chair and not the Board, because you're correct by having the Board listed, I would have to poll at least and get a kind of a group approval of making that deferral.

Mrs. Musante: What Dean and I have done previously is, I'd contact him, I mean, you know, what do you want to do? Well let's wait and see where we are, and then I think on the January one he wanted to poll the Board because he was undecided on what he wanted to do. So and then he asked me to contact the applicants and ask the applicants. Now, that was just on the January one. Now of course we're going to have to look and see, if we've got a foot of snow, I know we're not going anywhere, but that day we actually did open but they were calling for freezing weather that night and that's why we ended up cancelling that meeting.

Ms. Brown: We couldn't all get out either. I was one of the ones that had to have their street plowed.

Mrs. Musante: So we can continue to do it that way and just put Chair here.

Mr. Grimes: I mean, if the Board is comfortable with that, I don't have any issue with that.

Mrs. Musante: Okay, the Chairman.

Mr. Grimes: And I think that we would continue down, doing exactly what we've been doing in the past and if it's dicey, we just kind of poll the members informally and see where we are as early as possible.

Ms. Brown: Yeah, I appreciate being asked. Because it might be really great where you are, but it might be really not so good where I am.

Mr. Grimes: Oh absolutely, because I live close to 95, so folks over in the western side of the county have a completely different weather pattern. So Melody, can we read back the final version of that, so that we're all on the same page?

Mrs. Musante: Yes. 5-10: In the event of inclement weather that requires the closure of the County office buildings, the Board of Zoning Appeals will follow the policy of the Stafford County Government

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(not the Stafford County Public Schools). With regard to early closings, the Chairman will decide on a case by case basis and contact the public as soon as possible.

Mr. Grimes: I would offer that the County will contact the public as soon as possible.

Mrs. Musante: What did I miss?

Mr. Grimes: Well, the Chairman is not going to contact the public.

Mrs. Musante: ...and the County will contact... I missed that part.

Mr. Grimes: No, I just... as you read it... it wasn't a miss.

Mrs. Musante: Oh okay. The Chairman will decide on a case by case basis and the County will contact the public as soon as possible.

Mr. Apicella: How about notify the public?

Mr. Grimes: There we go.

Mrs. Musante: Notify.

Ms. Brown: Okay, not to be the one to kink all this up, what is the difference if the County is closed versus the County closing early? I mean, if the County is closed, it's closed, whether they close early or they close for the day. So we would follow no matter what, right?

Mr. Grimes: No, because our meetings take place in the evening.

Ms. Brown: Right, so if they closed at 3 o'clock, the County...

Mr. Grimes: But the County may not close, they may just leave on time and not make any announcement and it may make sense for us to be closed. That's why we try to write it with...

Ms. Brown: Yeah, I get that, but that's not how I read it with regard to early closings.

Mr. Grimes: Right, early closings as it related to the Board was my intent.

Mrs. Musante: Maybe we need to say something with regard to delayed opening. We didn't think about that either.

Mrs. Stefl: Let's say a snowstorm does hit at that 5:30/6 o'clock time frame and we're all in that like, okay, what's going on. Is the County good about then saying, cancel all their evening meetings, or...?

Mrs. Musante: No.

Mrs. Stefl: And so that's kind of what we're in that limbo here, that when the County sort of at that 5 o'clock end of the work day and that's when the storm or something comes in.

Ms. Brown: So let's take out early closing and just put the Chair will decide if we're going to postpone, or delay, or...

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Mr. Apicella: But it needs some context though.

Mrs. Stefl: So with regards to after hours, after business hours, after government hours.

Ms. Brown: Don't they always say, Parks & Rec, all activities for Parks & Rec is closed tonight?

Mr. Grimes: Parks & Rec are...

Ms. Brown: Part of the County, isn't it?

Mrs. Stefl: I'm not the legalese but that's what the limbo we're in?

Mr. Grimes: That's exactly it, because the government, the County offices may never need to close. If the snowstorm starts at 5 and the next morning it's raining and everybody goes to work, the County government never closes. But it could affect whether or not we could actually have an effective meeting. So that's all I was trying to... was create that window so that the Board has an opportunity to say, we're not meeting tonight. We're all slipping and sliding on the way home. Cancel it.

Ms. Bertoldi: If I may, maybe for context, say, you know, if the Stafford County, you know, closes, or if it's after hours, because that way you're not kind of screwing up with, you know, the language of half-day, or whatever you're saying. If it closes or it's after hours I think it would cover everything and it would also give context. I agree with Ms. Brown, that did sound a little confusing to me at first, like are we bothering with this if it's a half-day, it's going to be closed, but I see now why, but I think...

Mrs. Stefl: In regards to afterhours...

Ms. Brown: Delays or postponements, yeah, I don't like the early closings. That's what's holding me up, is the early closings. With regard to postponing or something...

Mrs. Stefl: Afterhours meeting...

Ms. Bertoldi: If Stafford County closes or is after hours, because if it does close in the middle of the day and the storm hits at 4 o'clock we still have the same issue.

Ms. Brown: How about with regard to evening activities, the Chairman will decide on a case by case basis?

Mr. Apicella: I like that, with regard to evening activities if there is an inclement weather situation.

Ms. Brown: Yeah. The Chairman will decide on a case by case basis.

Ms. Bertoldi: Yeah, because that's even broader and allows for any situation.

Ms. Brown: I like that too. Good job Steven.

Mrs. Musante: You want me to read it again?

Ms. Brown: Yeah.

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Mrs. Musante: In the event of inclement weather that requires the closure of the County office buildings, the Board of Zoning Appeals will follow the policy of the Stafford County Government (not the Stafford County Public Schools). With regard to evening activities, the Chairman will decide on a case by case basis and the County will notify the public as soon as possible.

Mr. Apicella: Well again, there was a... with regard to evening activities, when there is inclement weather.

Mrs. Musante: When there is inclement weather.

Mr. Kim: What activities are we referring to?

Ms. Bertoldi: Our related activities and meetings.

Mrs. Stefl: I mean, we could in theory have a meeting during the day on a Saturday.

Ms. Brown: No, because it wouldn't be properly advertised.

Ms. Bertoldi: But maybe activities and meetings, because this isn't considered an activity, it's considered a meeting, right?

Ms. Brown: How about evening meetings, with regard to evening meetings.

Dr. Ackermann: Public meetings, with regard to public meetings.

Mr. Grimes: I think, can we maybe kind of just refine this a little bit with regard to after normal business hours, or take out with regard? I know it's nice, but just simply start with: after normal County business hours the Board will decide on a case by case basis...

Mr. Apicella: Again, I think you need to put in the weather, because there's got to be a driver for...

Mr. Grimes: And it could be repeating the first sentence. In the event of inclement weather after normal County business hours the Board will decide on a case by case...

Mr. Apicella: The Chairman.

Mr. Grimes: The Chairman, sorry, will decide on a case by case basis and the County will notify the public as soon as possible. So, it's almost a 5-11 to be very honest, but you could start with: In the event of inclement weather, after normal County business hours, the Chairman will decide on a case by case basis and the County will notify the public as soon as possible.

Ms. Brown: Just stick the word meetings in there and then I'm good.

Mr. Apicella: I think the Browns are really glad they left.

Mrs. Musante: I should have went with them. In the event of inclement weather, after normal County business hours, the Chairman will decide on a case by case basis and the County will notify the public as soon as possible.

Mr. Grimes: Yes.

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Mrs. Musante: Thank you.

Ms. Brown: Shouldn't we put the word "meetings" in there so we know what we're talking about? I think meetings should go in that sentence, probably before the Chair, afterhours and then before the Chair.

Ms. Bertoldi: How about, will decide on a case by case basis to cancel meetings.

Mr. Apicella: But it's under article 5; meetings. Meetings is already part of the...

Ms. Brown: That's true. I'd like the meetings in there though.

Mrs. Musante: Do you want to think on this for another month?

Mr. Grimes: I would like to go ahead and, we're going to get out probably an hour before we have in the last 6 months.

Mrs. Musante: I was hoping to get out a half hour before now.

Mr. Grimes: Okay, let's read this one more time, I think we're all on the same page. Melody, would you like to read it, or would you like me to?

Mrs. Musante: You go right ahead.

Mr. Grimes: Okay. 5-10: In the event of inclement weather that requires the closure of the County office buildings, the Board of Zoning Appeals will follow the policy of the Stafford County Government (not the Stafford County Public Schools). In the event of inclement weather after normal County business hours, the Chairman will decide on a case by case basis and the County will notify the public as soon as possible.

Mr. Apicella: I'm going to throw a wrench into this. Okay? What about other emergencies? What if we had a terrorism situation? Things get shut down? Can we just say...

Ms. Brown: Inclement weather/other emergency?

Mr. Apicella: Yeah, I'm just suggesting that, just to do a catch-all since we have the opportunity to do it now.

Ms. Bertoldi: Who decides what's an emergency?

Mr. Apicella: Well, it's already going to be decided by the...

Ms. Bertoldi: The Chairman. Okay.

Mr. Grimes: Works for me. So just inclement weather/emergencies?

Ms. Brown: Other emergencies.

Mr. Grimes: Okay, we're good with that now?

Ms. Brown: I am.

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Mr. Grimes: Wonderful. So, with the modifications to the By-laws, since we've discussed them, we've kind of codified them now, I'd like to see if we can go ahead and adopt these new By-laws, Rules, and Procedures.

Ms. Brown: Does that include that clerical fix?

Mr. Grimes: Yes.

Mr. Apicella: Mr. Chairman, I move for adoption of the amended By-laws as stated.

Ms. Brown: And I will second that.

Mr. Grimes: I have a motion to approve the revised By-laws, Rules, and Procedures by Mr. Apicella and seconded by Ms. Brown. All those voting to approve the modifications say aye.

Mr. Kim: Aye.

Dr. Ackermann: Aye.

Mr. Apicella: Aye.

Ms. Brown: Aye.

Ms. Bertoldi: Aye.

Mrs. Stefl: Aye.

Mr. Grimes: Aye. All against? None heard. The new By-laws are approved 7-0.

Ms. Bertoldi: Mr. Chairman, if I may before you...

Mr. Grimes: Yes ma'am.

Ms. Bertoldi: Since I have the ability to speak tonight, I just want to ask the Board to consider something, obviously with respect to alternates. As the language is now, and I respect, and I agree that an alternate shouldn't necessarily be able to ask unfettered questions as if a voting member, but maybe the Board can consider revising the language to allow a Board member to ask a question of an alternate if they decide. Because as it's written now, you couldn't even ask anything of an alternate and I know that Mr. Gibbons has certain knowledge that nobody has here on the Board. It might be nice that somebody can ask him a question if you need clarification, or myself, given my background as well, and any other alternate. So I would just, you know, ask that maybe you guys consider changing it to where... not where we get to speak like you, but if you guys decide you want to ask us a question and we're able to maybe ask it, like you do staff, I think it would be nice to be able to do that.

Mr. Kim: If I can, Mr. Chairman?

Mr. Grimes: Yes sir.

Mr. Kim: I would like to agree with that, especially since we have an attorney. I mean she's not licensed in Virginia, but still, she passed the bar somewhere.

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Dr. Ackermann: Are we restricted from asking anyone questions?

Ms. Bertoldi: On here it says that absolutely and under no circumstances are we allowed to participate in any way, so I'm saying, just allowing to...

Dr. Ackermann: I mean, because we often ask questions of people in the audience, people making presentations, so-called experts. I mean, not so-called, well just people who are identified as experts in particular areas, and I don't... anyway, if we have to change it, that's fine, you know, so that we can call on the expertise of the alternates, but if we don't have to, we could ask them... I mean they can't participate, but couldn't we ask them a question? I mean, are we limited from asking anyone a question? And that'll be a good thing to know too, for me to know, since I've been here, you know, many years ago. Am I limited from asking people questions?

Ms. Bertoldi: I mean, if I may, the people that you ask questions of in the audience, they have standing in that particular case to actually discuss it. I don't and according to the By-laws... I'm bound by the By-laws, they aren't. So, and that's the only reason why I would understand it if you guys decide not to, but I just think that, you know, I'm not, like I said, I'm not trying to like to be able to speak at every meeting, but there may be something you guys may want to ask me about a deed or this or that, you know, I do have a lot of knowledge with respect to that. And Mr. Gibbons has, you know, knowledge that I don't think anybody, any of us can meet/match. So I just think that it would be nice to be able to at least have you guys be able to ask us questions if you would like to.

Ms. Brown: I'm not sure... not that I have problem with you doing it, my concern is it will be an official action, we'd be asking you official advice on an official case, and I think that might... you know, if we get legal advice from her on a case that goes to court later...

Ms. Bertoldi: It's not legal advice. It's an opinion of what you think. It's not a legal advice, I'm not allowed to practice law in the state of Virginia and I'm not able to do that, but I also talk about, you know, Mr. Gibbons and his understanding of Codes and Ordinances is, you know, in comparison, you know, no one has the knowledge that he does, in my opinion. I mean, he's been around but all I'm saying is, you may just want our opinion on no matter what. And I'm just saying, I just said because of my background. It was Mr. Kim down there who said I was lawyer. I wasn't trying to make it as it was a legal advice.

Ms. Brown: No, I just...

Ms. Bertoldi: But I understand your concern. I was just raising it, you know, those are the questions that, you know, need to be fettered, but I just wanted to raise that.

Ms. Brown: My concern, again, is in the lawsuit. If we are asking someone who doesn't have standing, who's not part of the case, you know, if we get sued on one of our decisions, which, you know, happens, that we were consulting with someone that was not attached to the case.

Mrs. Stefl: Well, I know that we went around and around over the last years over what is an alternate and what is a member, and I think as someone that has sat in that alternate seat and Steven and I, we definitely brought, I think, perspective at times to the Board and some clarification at the time. I know Steven brought up a lot of great points, you know, he would write us and say, I don't know if I'll be sitting in on this case, but whoever is, here are some points and I definitely think it brought in all of our perspectives to have those 9 different views of the various cases and I personally would like to know, you know, like Mr. Gibbons, when he was Chairman, he brings up perspective, and Steven, I know, you know, you definitely, I'd like to think that I brought some things, maybe whether it was helpful or not always, but I'd definitely

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would like to see the alternates participate in the discussion or the clarification or insight. So I'm definitely in support of this. But...

Ms. Bertoldi: And however people want... I just wanted to raise it. I mean, the question could be as simple as, you know, Mr. Gibbons, what do you think? You know, if people are stuck. I'm not saying specific, what is your opinion on this particular statute or, you know, something.

Mr. Apicella: I think one thing that has changed is, we can no longer ask, for the most part, we can no longer ask questions in advance, which I think is a limiting factor unfortunately, unless those questions also get posed to the applicant and/or their agent. I'm kind of torn in the middle, especially having been an alternate. I don't want to do anything that jeopardizes us if a matter goes to litigation; on the other hand, I don't have a problem with trying to somehow obtain input from an alternate. And to me, the best way to do it is, potentially as we're sitting here, if an alternate has a thought that they could pass that along to either the Chairman or to another member to ask that point. I would be concerned about, kind of to Dana's point, asking Mr. Gibbons, what is your opinion, because that might influence the outcome of the case to the point where we have attorneys who might say, well that was inappropriate.

Ms. Bertoldi: And actually as you said that, I had not thought about that. So that's actually a really good point and I actually do agree with that.

Mr. Apicella: So maybe the best way to handle... I'm not even sure if it requires a By-law change, because I think I actually sat here one day and handed questions to the Chairman.

Ms. Brown: Yeah, and I'm okay with that, I just... make it a part of the official record that some decision could be swayed by some public statement that an alternate made who is not a voting member.

Ms. Bertoldi: Or what if... can an alternate raise their hand and the Chairman can have the ability to call on an alternate to participate if they want to or not.

Mr. Apicella: My concern is, again, I've been in this position, so I'm completely sympathetic, especially when I had to sit here and do this, and I really wanted to make a point. I just don't want to do anything and if we were to go down that path, I think we would have to seek council, to see where we cross that line...

Ms. Bertoldi: No, I don't want to cost money.

Mr. Apicella: ...where it jeopardizes. Because even calling on somebody, I think, it makes, for better or worse it's a 7 member BZA and so if you start calling on an alternate, and that person is the 8th person, and then we have another alternate and that's the 9th person. Now it becomes a 9 person BZA contrary to the way that the Stafford BZA was set up. I just think we have to be careful.

Ms. Bertoldi: No, and I agree and actually I'm glad we flushed this all out, because I'll withdraw my request, because I would be concerned about that as well. So I understand. I was just raising it.

Mr. Apicella: I think, again, if you come to a meeting and you have a question, you should feel free to pass it on to somebody.

Ms. Bertoldi: I'll be shoving it to whoever's next to me.

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Mrs. Stefl: It also goes to the point where we have had many cases that are then deferred to the next month when that alternate now is coming up, and if they are here and they have a sense of where it's been, they're not playing catch up. But what also concerns me, there's nothing in our By-laws that states when we a) review them, or how a member could request an addition or subtraction, or to begin this conversation. There is no real procedure. I just don't see where it says By-laws will be reviewed...

Mr. Apicella: It's article 8.

Mrs. Stefl: Okay, maybe I missed that.

Mr. Apicella: It says "The By-laws may be amended by majority vote of the membership of the Board."

Mrs. Stefl: But that's right at what?

Mr. Apicella: I guess it could be at any time. You know, if we had a chance to amend it I would say, going to the Chairman's point, we got to at least wait 30 days, because this is a public process.

Mrs. Stefl: So a member just brings it up and then, or does it need to be a majority? We would like to... the 4 of us, the 3 of us would like to do this?

Mr. Grimes: I guess the process has been pretty informal in the past, for the years that I've been here, and it has occurred exactly like it did, kind of organically. Something came up, we decided that it probably merited more discussion and if needed time for the Board members to think about it, we took the next 30 days to do that and we would circulate emails between the members for proposed language or anything that we could do to speed the process up, so that we didn't spend hours here, kind of mired in the weeds. I think it's worked really well in the past. I'd like to not change that.

Mr. Kim: Wasn't... can I ask a question? Wasn't that all part of public record if we do start emailing each other? Didn't we...

Mr. Grimes: It's only as it relates to a case.

Ms. Bertoldi: Really it's not a... because at least in my HOA if three of us start emailing each other informally, we had to make it a public... and then notify the entire subdivision, so maybe that's something different, I don't know.

Mr. Kim: Yeah, that's the fine line that I'm a little worried about.

Mr. Grimes: Well and that's... whenever these discussions have come up, the process has been to email every member on the Board and to copy them, so that it... everybody on the Board is involved in the discussion, so that if does become record or has to become record, everybody's been brought into the loop on these.

Mr. Kim: So are we supposed to submit all that stuff...who do we submit that to, like if we... oh... you?

Mr. Grimes: Melody.

Dr. Ackermann: She's copied on all of it. I think this has been a great discussion. I think when we... part of, also, you know the thing, 30 days before we take a vote, it'll be a good idea for us to research By-

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laws of other BZAs and also what's the name of that group, like whoever runs the course, you know, yeah Mike Chandler, there's best practices also.

Mr. Apicella: Just say, because we do this at the Planning Commission level, it is 30 days. You have to give all the members and the public a chance to see it and it has to sit for 30 days before you take any action on it.

Mr. Grimes: And I'll be glad, I'll check with a few other local jurisdictions just to see what they have out there.

Dr. Ackermann: Or see how they handle alternates for example.

Ms. Bertoldi: Well, and actually, I do withdraw. No, and I do withdraw that request, because I'm actually really glad we spoke about it, because I think Steven is also correct, because if I was a lawyer representing somebody, and everyone seemed to be happy with it and then me, as an alternate, threw a monkey in the wrench and made you guys think about something and change the vote, I can see that being basis for appeal. So, I do withdraw that request and I see why it makes sense the way you have it.

Mr. Grimes: Alright, thank you. Any other issues from the Board? Hearing none, I'd like to see if I can get a motion to adjourn. I think we've already been through the meeting minutes.

Mrs. Stefl: Okay, okay cool.

Ms. Brown: I second to adjourn.

Mr. Grimes: Everyone vote to adjourn?

Mr. Kim: Aye.

Dr. Ackermann: Aye.

Mr. Apicella: Aye.

Ms. Brown: Aye.

Ms. Bertoldi: Aye.

Ms. Stefl: Aye.

Mr. Grimes: Aye. Thank you all.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 8:26 p.m.