



Department of Planning and Zoning
Town of Vienna
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MEMORANDUM

Date: November 20, 2024
To: Board of Zoning Appeals
From: Andrea West, Zoning Administrator
RE: Appeal of Zoning Administrator Determination
Notice of Zoning Violation - May 8, 2024
444 Maple Ave W, 0383 02 0139
440 Maple Ave W, 0383 02 0140
430 Maple Ave W, 0383 02 0141

Appeals of Zoning Administrator Determinations

Per Section 15.2-2311. Appeals to board. of the Code of Virginia, and Section 18-820 Appeals of Zoning Administrator Decision, of the Town of Vienna Zoning and Subdivision Ordinance, the recipient of any Notice of Violation has the right to appeal the written order within 30 days of the date of the notice.

On May 8, 2024, the Zoning Administrator delivered a Notice of Zoning Violation to the applicant, regarding the applicant's lack of compliance with the approved site plan on the referenced properties. The site plan was approved on June 9, 2021.

On June 7, 2024, the applicant's representative, Sara Mariska of Odin, Feldman, Pittleman, hand-delivered to the clerk of the Board of Zoning Appeals the request to appeal, which is attached to this memorandum. The applicant has thereby met the 30-day timeline.

The appeal was originally scheduled for the July 2024 Board of Zoning Appeals meeting. On July 12, 2024, Ms. Mariska submitted a request to defer the appeal from that meeting. Staff transmitted that request to the Chair of the Board of Zoning Appeals and the item was not discussed. An additional request for deferral was submitted prior to the September meeting of the Board of Zoning Appeals.

Summary of Determination

The appeal challenges the Zoning Administrator's determination that the subject properties have not been maintained in a condition that is compliant or moving toward compliance with any

approved site plan since the previous hotel and restaurant structures were partially demolished in May 2022. In the three subsequent years, no additional progress has been made towards compliance, including that no building permit has been obtained. The current site has temporary construction fencing that, by virtue of the length of time it has been in place, can no longer be considered “temporary.” In addition, there are, on site, open foundations and construction debris.. As such, there is no building permit or site plan approval for the current three-year state of the site. Therefore, the subject properties are in violation of **Section 18-836 Site Plan Review** of the **Town of Vienna Zoning and Subdivision Ordinance**.

Decision of the Board of Zoning Appeals

The Board’s decision today is whether to 1) uphold the determination of the Zoning Administrator, or 2) overturn the decision of the Zoning Administrator regarding the Notice of Violation issued on May 8, 2024.

Potential motions:

- I move to **uphold** the Zoning Administrators Determination dated May 8, 2024, for the properties at 430 Maple Avenue W (0383 02 0141), 440 Maple Avenue W (0383 02 0140), and 444 Maple Avenue W (0383 02 0139), stating a violation of *Section 18-836 Site Plan Review* of the *Town of Vienna Zoning and Subdivision Ordinance*.
- I move to **overturn** the Zoning Administrators Determination dated May 8, 2024, for the properties at 430 Maple Avenue W (0383 02 0141), 440 Maple Avenue W (0383 02 0140), and 444 Maple Avenue W (0383 02 0139), stating a violation of *Section 18-836 Site Plan Review* of the *Town of Vienna Zoning and Subdivision Ordinance*.
- Or other decision by the Board of Zoning Appeals.

Signed,



Andrea West, CZA
Zoning Administrator

Attached:

1. Statement of Appeal of Notice of Violation, June 7, 2024
2. Notice of Zoning Violation, May 8, 2024
3. Excerpt from Approved Site Plan, June 9, 2021
4. Relevant Code Sections

See below for property map, aerial photograph, and site photographs.

Property Map



Aerial Photograph – December 21, 2023



(Source: <https://explorer.eagleview.com/index.php#> - accessed 7/10/2024)

Site Photos – July 9, 2024



Nutley Street NW, looking towards Maple Avenue W



Site interior looking north-east, over fence



Site interior looking north-west, over fence