



Town of Vienna

127 Center Street South
Vienna, Virginia 22180
p: 703.255.6341
TTY 7111

Meeting Minutes Board of Zoning Appeals

Wednesday, May 20, 2020

7:00 PM

COUNCIL CHAMBERS-VIENNA TOWN
HALL

Online Meeting

**To participate in the meeting via Zoom, please visit:
https://us02web.zoom.us/webinar/register/WN_1ODiLb0OQgSPFhKjAQbriw*

1. Roll Call

The Board of Zoning Appeals (BZA) held one advertised public hearing in the Council Room of the Vienna Town Hall, located at 127 Center Street, South, Vienna, Virginia, on May 20, 2020 beginning at 7:00 PM with George Creed presiding as Chair. The following members were present: Daniel Nash, Jonathan Rak, Robert Petersen, Robert Dowler, Michael Gadell, and William Daly. Also attending and representing staff were Frank Simeck, CZA, and Sharmaine Abaied, Board Clerk.

At the beginning of the meeting Mr. Creed asked the clerk to call roll with all members being present.

2. Public Hearings

Resolution for Continuity of Government

Board of Zoning Appeals May 20, 2020 Resolution for Continuity of Government

Mr. Creed read the Resolution for Continuity of Government and asked for a roll call vote with 7 ayes, and 0 nays.

Ayes: Mr. Nash, Mr. Petersen, Mr. Creed, Mr. Rak, Mr. Gadell, Mr. Daly, Mr. Dowler

215 Center St S - 114 Locust St SW - Request for a conditional use permit for a new public building (new police station).

Request for approval of a conditional use permit for a new public building (new police station) on a 1.54 acre site, located at 215 Center St S (0384 02 0149), 114 Locust St SW (0384 02 0149A), in the RM-2, RS-10 zone. Application filed by the Town of Vienna.

Mr. Roderick Williams (Dewberry), Timothy Culleton (Dewberry), Ellen Ox (Dewberry) of 8401 Arlington Blvd. Fairfax, VA were sworn in to speak.

Frank Simeck, Zoning Administrator for the Town of Vienna was sworn in to speak.

Mr. Simeck gave a brief presentation related to the application. The existing police station being replaced with new police station building associated public plaza, and parking lot.

Town Code sections in the RS-10 Single-Family and RM-2 Multifamily zoning districts require a conditional use permit for “public buildings and uses” New Police station Includes two properties that are to be consolidated. The site location, to be consolidated, includes: 211-215 Center Street South (RM-2) and 114 Locust Street Southwest (RS-10). Mr. Simeck pointed out the location of the Police Station and the surrounding buildings. Mr. Simeck stated the following conditional use permit criteria: Sec. 18-209. - Use permit subject to certain conditions. The board of zoning appeals may issue a use permit for any of the uses enumerated in section 18-210 in response to an application therefor, provided the use for which the permit is sought:

- (1) Will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
- (2) Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- (3) Will be in accord with the purposes of the Town's master plan.

In granting any use permit, the board of zoning appeals may impose such conditions as it may deem in the public interest, including limiting the duration of a permit, and as will ensure that the use will conform to the foregoing requirements and that it will continue to do so, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. The board may revoke a use permit if the board determines that there has not been compliance with the terms and conditions of the permit. No permit may be revoked except after notice and hearing as provided by Code of Virginia, § 15.2-2204. Mr. Simeck stated that the Police Station is mentioned in the comp plan on page 99, chapter 6: Community Facilities and Services as follows: Police Department space and information technology requirements are not fully satisfied by its current facilities. Some police functions, including the Criminal Investigations Section, are currently housed in Town Hall. A facility is planned to be built in place of the existing facility and an abutting residential property (114 Locust Street SW), which the Town purchased in 2013, to meet the needs of the Department.

Mr. Creed asked if the Town had any other input and Mr. Williams stated Dewberry also had a presentation.

Mr. Williams began by thanking the Board for hearing their presentation. He started his presentation explaining the context of the Police Station in the neighborhood with the existing conditions and then the proposed conditions. Mr. Williams spoke on how they utilized the existing conditions to ensure that the proposed would not have an adverse effect on the surrounding homes. Mr. Williams presented the elevations of the proposed building with the surrounding homes and explained how they decided on appropriately stepping down the two-story building while being cognizant in thinking about the scale of the building as it related to the community. Mr. Williams mentioned that 35 feet is the requirement by the town and the proposed police station would be at 27 feet at Locust and 29 feet at Center with a parapet wall at 35 feet. It would be a mansard roof with mechanical equipment on the other side. Mr. Williams then told the Board about the materials they would be using and the study used to decide on the materials. They incorporated brick into their design as it used around the town, metal panel (as used at the community center), masonry bases, and some other materials that would be used in residential. Windows are set at 5 feet to obscure views on the first floor and 4 feet for the window sills. The community room would have warmer materials, fiber cement panel with a wood pattern. Mr. Williams presented the perspective views as well as the exterior renderings pointing out the materials and the location of the materials on the proposed building. Mr. Williams discussed the decision of the plaza and making it an amenity for the community. Plaza best practices are: accessibility, comfort, engaging, and secure. CPTED strategies (Crime Prevention Through Environmental Design) were utilized when designing the

plaza. The architectural site plan was presented next highlighting the materials on site in terms of paving, grass, and planted areas. Mr. Williams pointed out the gradual slope, bike rack, steps, benches built into the site, site walls, access from public parking, and the seat wall. The plaza perspectives from Locust and from the public parking were viewed next.

Tim Culleton began his review of the landscape plan and site plan by stating the plan was consistent with the comp plan in regards to safety and health. Fencing around the facility would allow the police operation to be separated from public parking enhancing safety and security of the officers. There is no anticipation of increased traffic, in reference to the impact on neighbors and surround properties as it will be the same amount of officers at the facility. The facility will collect all the storm water and bring it into a underground faculty, ensuring it's collected, treated, and conveyed to an adequate outfall off site so as not to increase run-off to the adjacent properties. Landscaping and barrier walls will be at on the outside of the facility for security and screening.

Mr. Williams said they will capture the storm-water along the fence, improving the current condition that exists. They had surveyed around the town to see what was utilized for lighting, bollards, benches, bike racks, trash cans, and water fountains. For lighting the chose a led Selux Saturn 2 cutoff, utilized house side shielding to keep light from spilling onto other sites. Handrails on site will be utilized to light the walkway, as well as accent lighting under the benches. Lighting in the plaza will be generated by the soffit of the roof for the community room. Bollards with lights will also be used. Mr. Williams pointed out the pole mounted light fixtures on the architectural site plan. The current light fixtures in the Bowman lot will be replaced. The site photometric showed how the light would spill without the house side shielding on the lights.

Mr. Creed asked Mr. Dowler for questions.

Mr. Dowler asked what the community room would be used for; Mr. Williams stated it would serve several purposes: community meetings, parks and recs programs, over flow from a Town Council meeting, emergency operations center in the event of an emergency. Mr. Dowler asked who would run the community events from the community room.

Chief James A. Morris, 215 Center St S., was sworn in to speak.

Chief Morris stated the police department would work with parks and rec as some activities as either the police department or parks and rec would most often be the main point of contact for any activities in the community room. Mr. Dowler asked where the parking would be for events at the community room. Chief Morris stated, with the assumption that the events would be off operating hours, the front parking lot, Vienna Elementary, town hall, and street parking would be utilized for community room events. Mr. Dowler asked how many people the community room would hold. Chief Morris stated the entire capacity of the room, with both sides open, is 96-98. Mr. Dowler asked if there would be a great many more cars parked with a community event along with the school, tiny tots, and waters field. Mr. Dowler stated the BZA is involved with the safety of the residents and the Center St./Locust St intersection was a problem that has not been addressed with a traffic report. Chief Morris stated the project doesn't have a nexus to that intersection and they would not be adding any new traffic to the area. The community room will have off hour programs so as not to add to the twice a day problem at the intersection of Center and Locust due to school starting and letting out.

Mr. Creed asked Mr. Petersen, Mr. Gadell, and Mr. Daly if they had questions, they had none at the time.

Mr. Creed asked Mr. Rak and he stated he had a few questions. Mr. Rak asked what the design of the south side screen wall would be. Mr. Williams said it would be brick pilasters with metal slats due to comments from staff and the Board of Architectural Review to make sure the scale of the fence was broken down. Where the fence turns back to the building the connection is being softened. Mr. Rak asked if the fence would provide sound attenuation as a solid wall would. Mr. Williams stated no and that the fence was there for security and screening. Mr. Rak asked if there was an existing screen wall between the residences and the station. Mr. Williams showed the current wall that was wide open not providing any security. Its only purpose was to provide a separation from the church and the residences. Mr. Rak noted the firing range in the proposed drawings and asked if there was an existing firing range, Mr. Williams stated there was. Mr. Rak asked if there would be noise emanating from the basement firing range and assumed there would not, based on the structure around it. Mr. Williams stated that was correct and that they worked hard to address concerns of noise emanating out into the community.

Mr. Creed asked Mr. Nash if he had any questions. Mr. Nash asked why lot coverage and setback requirements hadn't been discussed. He also asked if parking could be addressed again as well as why permeable pavers were not used. Mr. Williams stated that from their experience, as well as from town maintenance, they are nice in theory, but are challenging from a maintenance perspective. Have the fence setback creates a safety issue for officers in reference to the turning radius. Mr. Nash stated he understood the realities of security and maintenance issues. Mr. Simeck chimed in and stated the only item before the Board was the use and that anything regarding lot coverage or wall is modifications of requirements that will be heard at the Town Council level. The Board is only hearing the request for approval of the public building as a use under the conditional use permit. Mr. Creed asked Mr. Simeck why the questions were not germane and under the jurisdiction of the BZA. Mr. Simeck stated those were modifications of requirements which were heard by the Town Council. Mr. Simeck stated that a Conditional Use was before the Board, not a variance. Mr. Creed asked if the Board had an jurisdiction over those items and Mr. Simeck stated no. Mr. Creed asked Mr. Nash if he had any other questions and Mr. Nash stated no.

Mr. Creed asked for the lot coverage on the proposed plan and the parking spaces allowed. Mr. Simeck stated there was an increase of 63 spaces from 40. Mr. Culleton stated they increased the number of spaces on the lot and worked with the Chief to identify how many spots were needed for daily operation for police and visitors meet the requirements as identified by the department. Mr. Creed asked if the proposed would meet all the requirements, eliminating the current parking behind the church. Chief Morris said it would take care of all on duty and off duty employee parking in the secured area eliminating the parking behind the church, in front of the police station, and town hall. Chief commented again on the community room stating it was not a community center and that they would decide if, when, or how big a program would be.

Mr. Creed asked if there was anyone from the public who would like to speak. Mr. Creed stated, for the record, that a letter was received from Jim and Barbara Jackson from 119 Cherry Cir SW., a memo concerning the right-sizing of the police station, dated May 14, 2020.

Greg Jacobson, 115 Locust St, was sworn in to speak.

Mr. Jacobson asked how the existing street parking and the configuration of the new police station will affect the existing street parking. Mr. Jacobson also asked if the community use is limited on the second floor based on need, was there a need, and what was

the additional cost the town is incurring for the second floor? Mr. Culleton stated the street parking affected would only be at a single access point being proposed on Locust into the police facility as all parking would be in the secured parking area and there would be no need to utilize the public spaces. Mr. Williams stated the use of the second floor was for officers as the current police station is undersized for the operations the police currently need to address. The public access would be the community room and the lobby area, which is the one-story adjacent to the plaza. Chief Morris clarified that the only community space is the glass line pavilion. Mr. Jacobson asked for the breakdown of total square footage and square footage for community use. Mr. Williams stated the community rooms would be around 1500 square feet the entire facility was around 29,000 square feet. Mr. Jacobson asked if only 90 people were allowed in the 1500 square feet, Mr. Williamson stated yes, but that it did not include what was already utilized by A/V equipment, and storage spaces to support the community room. Mr. Jacobson asked how much of the 29,000 square feet would be the second floor. Mr. Williamson said it would be a little less than 1/3 of the entire building. Mr. Jacobson asked if the 29,000 included the basement and Mr. Williamson stated yes. Mr. Creed interjected and stated that the questions were outside of the scope of the Board of Zoning Appeals, Mr. Simeck concurred stating those were modifications of requirements that would go to Town Council which is where the issues should be brought forward.

Mr. Creed asked for a motion to close the public hearing. Mr. Daly made a motion to close the public hearing, Mr. Rak seconded the motion. Mr. Creed asked for a roll call vote with 7 ayes, and 0 nays.

Ayes: Mr. Nash, Mr. Petersen, Mr. Creed, Mr. Rak, Mr. Gadell, Mr. Daly, Mr. Dowler

Motion: Daly

Second: Rak

Passed: 7-0

3. Regular Meeting -

Decision for 215 Center St S -114 Locust St SW - Request for a conditional use permit for a new public building (new police station).

Request for approval of a conditional use permit for a new public building (new police station) on a 1.54 acre site, located at 215 Center St S (0384 02 0149), 114 Locust St SW (0384 02 0149A), in the RM-2, RS-10 zone. Application filed by the Town of Vienna

Mr. Rak made a motion to approve the request of a conditional use permit for a new police station. Mr. Nash seconded the motion.

Mr. Creed asked for further discussion regarding the motion.

Mr. Dowler stated he would be voting against the conditional use permit as Section 209 of the town code charges the Board with the safety of the use for the community. He continued stating he felt there was a major issue with the safety with effect to the building and use on the traffic at the intersection of Center St. and Locust St. From his understanding the Planning Commission was recommending a traffic report and there was a major problem currently with the existing activities at that intersection with the school, tiny tots, traffic, and school buses. Even with the existing police station there will be a new use with the community room and no one has been able to speak on the volume or how it will be used. Mr. Dowler stated that a traffic safety report should be done and granting a conditional use permit without speaking on the safety issue the permit will not

come back before the Board.

Mr. Creed mentioned the Planning Commission's recommendation as follows:

From: Stephen Kenney, Chairman Planning Commission

To: Board of Zoning Appeals

Meeting Date: May 13, 2020

Re: Conditional Use Permit (CUP) for a New Public Building (Police Station)

Overview

During the aforementioned Planning Commission meeting we reviewed the merits of a proposed new/replacement public building (police station) proposed to be located at 215 Center Street South and 114 Locust Street SW in the RM-2 Multifamily, Low Density and RS-10 Single Family Detached Residential zoning districts. The proposed police station is a replacement of an existing public building (also a police station) but now is proposed to encompass an adjacent residential (RS-10) lot.

The Planning Commission reviewed several Issues concerning the proximity to and impact on the surrounding neighborhood. We discussed the possible removal/replacement of a tree (T22, see sheet C-107) which appears to be located on the adjacent lot. The neighbor seems open to possible replacement but further discussions/agreements would be needed. We reviewed the height, appearance and proximity of the screen wall. The PC discussed the visual impact of a possible future canopy in the parking lot for the support of photometric panels. The PC also raised the issue of a firing range and the possible safety impacts and noise impacts on the surrounding properties. As the range is located in the basement and surrounded by concrete the safety issue seems to be mitigated. The possible noise impact also appears to be considered in the design although this needs more specificity in the design solution. Surface water mitigation was another primary consideration as the area is subject to localized flooding due to topography and lack of surface drainage. The proposed plan does appear to resolve as much of this condition as can be expected given the location and grading. In general, these items appear to have been satisfactorily designed and resolved.

The primary concern raised during the review, which is not resolved, is an ongoing concern with traffic at the nearby intersection of Locust Street SW and Center Street South. Neighbors were concerned about the traffic from the police station itself which will primarily discharge onto Locust Street SW, a residential local street. Others raised concerns of an ongoing problem of traffic volume and speeds going through the aforementioned intersection. The PC would like to see either the DPW and/or the TSC conduct a traffic study of this intersection and evaluate if there is a need for further remediations. In general, the issue appears to be a volume issue during the morning school arrival times. Obviously with the current pandemic a study would be best initiated after school sessions are returned to normal operations.

PC Action and Concerns

In general, the PC had no concerns with this CUP. We do seek additional study of the traffic at the nearby intersection.

Commissioner McCullough made a motion that a recommendation be made to the Board of Zoning Appeals for a conditional use permit for a new public building (police station), located at 215 Center Street South and 114 Locust Street SW, in the RM-2 Multifamily, Low Density and RS-10, Single Family Detached Residential zoning districts.

Motion: McCullough

2nd: Couchman

Roll Call Vote: 9-0

Mr. Creed asked where the traffic study stood and had anything been done. Mr. Dowler stated that his understanding was that it was non-existent. The Planning Commission isn't specifically tasked, when considering a conditional use permit, with the safety of the community, unlike the Board of Zoning Appeals. He continued stating that he felt there should be a formal report and the only way the Board could do anything would be to not issue a conditional use permit.

Mr. Creed stated that the letter from Mr. and Mrs. Jackson that there had been several requests in public meetings to fix the traffic and safety problem in front of Vienna Elementary. Mr. Creed asked Mr. Simeck when the traffic study was requested. Mr. Simeck stated he had no information about the traffic study, but did re-iterate that it will all be brought up at the Council level. The Planning Commission had recommend a traffic study, but Mr. Simeck was not sure of its appropriateness as the Board is only hearing the conditional use application for the expanded public use building. Mr. Creed stated that section 18-209 of the town code stated that "...provided the use for which the permit is sought will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use." Mr. Creed felt Mr. Dowler raised a good point as it was one of the major points they should look at, and was it something they should condition. Mr. Simeck stated if they Board feels there was a safety concern they could put in their motion measures to mitigate the safety concern. Mr. Daly stated that with some of the police facilities at town hall the current police station isn't large enough. There will be an expansion of 40 to 63 parking spaces. Those who currently use the property and will continue to use the property will be the police department. Mr. Daly stated the police know more about public safety then just about anyone else in town, and the police would say that people needing to cross the street will be reduced by virtue of better parking and larger facilities. Mr. Daly also stated that Mr. Simecks caution to not go beyond what is before the Board is well taken. The Board would be approving the use the use the property already has and expanding it over to what was a residential lot. The incorporation of that lot and improvements overall of the police station will make things safer, not less safe. Mr. Daly stated with the Planning Commission voting 9-0, the application does not give him any pause about the safety of the area, and will vote in favor of the conditional use permit.

Mr. Creed asked Chief Morris if anything had been done to do a safety crosswalk study at Vienna Elementary. Chief Morris stated there was nothing included in the project in front of the TSC (Transportation Safety Commission) for that intersection to be addressed.

Mr. Creed asked if the Director of Planning of Zoning was available to speak on it.

Cindy Petkac, 127 Center St S., was sworn in to speak on the matter.

Ms. Petkac explained that there was a process for neighbors concern with the intersection at Locust and Center. The concerns are centered on the activities of the school with the drop off in the morning or afternoon. Neighbors could petition through the TSC or through Town Council directly. The police station use was not contributing to the traffic concerns it is really related to the school. Mr. Creed stated it sounded as though it wasn't the police departments use, but more the use after hours of the community room. Ms. Petkac stated the activities would be scheduled by the parks and recreation department or other events that are at or beyond capacity at town hall, but parking at town hall would still be available.

Mr. Creed if there was any other discussion with regard to the motion on the floor. There was no more discussion, so the clerk was asked to call roll for the vote. Mr. Rak had made the motion, Mr. Nash had seconded the motion the motion passed with 6 aye and 1 nay.

Ayes: Mr. Nash, Mr. Petersen, Mr. Creed, Mr. Rak, Mr. Gadell, Mr. Daly

Nays: Mr. Dowler

Motion: Rak

Second: Nash

Passed: 6-1

Nay: Dowler

Approval of the Minutes:

Mr. Creed stated it was 6 ayes, and 1 nay so the motion carried. He then asked if there was a motion for the two sets of minutes, BZA Work Session, and BZA Public Hearing minutes. Mr. Creed asked if there were any corrections, he then asked for a motion. Mr. Rak made a motion to approve the minutes and Mr. Dowler seconded the motion. Mr. Creed asked for the roll call vote for the February 19, 2020 work session minutes, the motion passed with 7 ayes, 0 nays, and 1 abstention.

Ayes: Mr. Nash, Mr. Petersen, Mr. Creed, Mr. Rak, Mr. Gadell, Mr. Dowler

Abstain: Mr. Daly

Motion: Rak

Second: Dowler

Passed: 6-0

Abstain: Daly

Mr. Creed asked if there was discussion for the Public Hearing Minutes from February 19, 2020. Mr. Dowler made a motion to approve the minutes, Mr. Gadell seconded the motion. Mr. Creed asked the clerk for a roll call vote with 6 ayes, 0 nays, and 1 abstention.

Ayes: Mr. Nash, Mr. Petersen, Mr. Creed, Mr. Rak, Mr. Gadell, Mr. Dowler

Abstain: Mr. Daly

Motion: Dowler

Second: Gadell

Passed: 6-0

Abstain: Daly

Meeting Adjournment

Mr. Creed asked if there was other business for the Board of Zoning Appeals, Mr. Creed thanked all for participating in the meeting. He then asked for a motion to adjourn. Mr. Daly motioned to adjourn and Mr. Nash seconded the motion with a roll call vote of 7 ayes and 0 nays.

Ayes: Mr. Nash, Mr. Petersen, Mr. Creed, Mr. Rak, Mr. Gadell, Mr. Daly, Mr. Dowler

Motion: Daly

Second: Nash
Passed: 7-0

The meeting was adjourned at 8:36PM.

Respectfully submitted,
Sharmaine Abaied
Board Clerk

THE TOWN OF VIENNA IS COMMITTED TO FULL COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT STANDARDS. TRANSLATION SERVICES, ASSISTANCE OR ACCOMMODATION REQUESTS FROM PERSONS WITH DISABILITIES ARE TO BE REQUESTED NOT LESS THAN 3 WORKING DAYS BEFORE THE DAY OF THE EVENT. PLEASE CALL (703) 255-6341, OR 711 VIRGINIA RELAY SERVICE FOR THE HEARING IMPAIRED.

About the Board of Zoning Appeals

The Board of Zoning Appeals is a quasi-judicial board comprised of seven members – all of whom are residents of the Town of Vienna, VA. The Board serves as an arm of the Fairfax County Circuit Court, as all members are appointed to the Board by the Court after receipt of recommendation from the Vienna Mayor and Town Council.

The Board is empowered by the Code of Virginia to:

- Hear and decide appeals from any order, requirement, decision or determination of the Zoning Administrator.
- Grant variances from the Zoning Ordinance – as defined in Section 15.2201 of the Code of Virginia – as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will unreasonably restrict the utilization of the property to a degree that is not shared generally by other properties within the same zone or district, and its authorization will not be of substantial detriment to adjacent properties or change the character of the neighborhood
- Hear and decide applications for interpretation of the Zoning District Map when there is any uncertainty as to the location of the boundary line.
- Grant Conditional Use Permits in accordance with the provisions of Section 18-209 – 216 of the Vienna Town Code.

The Board of Zoning Appeals does not have the power to change the Zoning Ordinance or the rezone property. Those powers rest with the Mayor and Town Council. Please be advised, the Board decides each application on its own merit – there are no precedents.

The Board will first consider each application during the Public Hearing portion of the meeting. As part of the Virginia Court System, the Board of Zoning Appeals takes sworn testimony and each participant will be sworn in prior to offering comments.

The second portion of the meeting – the Regular Meeting – will convene after the Public Hearing has been closed. The Board will reach a decision on each item. The grant of any appeal from a decision by the Town's Zoning Administrator requires an affirmative vote of a quorum, no less than a majority of membership (4), of the Board. The grant of a Conditional Use Permit or variance requires an affirmative vote of a quorum, no less than a majority of membership (4), of the Board. If you are unable to stay for the last portion of the meeting, you may learn the Board's decision by contacting staff.

If any party is not satisfied with the decision of the Board, an appeal may be filed with the Circuit Court of Fairfax County within 30 days after the issuance of the Board's decision on the matter.