



Town of Vienna

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Meeting Minutes Board of Zoning Appeals

Wednesday, September 16, 2020

7:00 PM

COUNCIL CHAMBERS-VIENNA TOWN
HALL

Online Meeting

Resolution - Continuity of Government - September 16, 2020

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 September 16, 2020 beginning at 7:03 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, Kelly O'Brien Principal Planner, and Sharmaine Abaid, Board Clerk.

Item No. 1

Board of Zoning Appeals September 16, 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.

Mr. Creed utilized the roll call vote for the Resolution for Continuity of Government for the roll call with all members being present.

Mr. Creed then spoke with the Board members asking to change a portion of the meeting. He asked that they go to the decision portion for the agenda items right after each agenda item. Mr. Creed asked for the clerk to take a roll call vote with aye for those agreeing to the change and nay for those who do not agree to the change.

Ayes: Mr. Nash, Mr. Petersen, Mr. Creed, Mr. Rak, Mr. Gadell, Mr. Daly, Mr. Dowler. 7 ayes and 0 Nays

Roll Call

Public Hearing

604 Beulah Rd NE - Request for Variance from §18-24.F of the Town Code.

Request for approval of a variance from Section 18-24.F of the Vienna Town Code in order to retain the recently expanded driveway that exceeds the maximum permitted lot coverage

on the property located at 604 Beulah Road, NE; in the RS-12.5, Single-Family Detached Residential zone. Application filed by Mr. Vipul Masih & Mrs. Sonia Kannadan, owners.

Mr. Vipul Masih and Mrs. Sonia Kannadan of 604 Beulah Rd NE Vienna, VA were sworn in to speak.

Mr. Creed asked for the applicants to give their presentation.

Ms. Kannadan stated they were present for a variance application. She also shared her gratitude to staff for assistance during the application process.

Mr. Masih started with a power point presentation explaining their agenda which was on slide one of the power-point, the rest of the power point is as follows:

(Slide 3)

- ☐ Current zoning permits for 25% lot coverage, includes driveway in calculation
- ☐ Property purchased in 2018 with 24.43% lot coverage
- ☐ Property located on a busy street with heavy vehicular and foot traffic
- ☐ Unreasonably restricts the use of the property in a safe manner – Vienna residents and us
- ☐ We extended driveway unaware of lot coverage restrictions to allow for safe turn-around – 29.33% lot coverage
- ☐ Ensuring safety for us and Vienna residents
- ☐ Neighboring properties are not adversely impacted
- ☐ Expanded driveway allows turn-around and exit safely
- ☐ All of the extended driveway is needed to turn-around when a vehicle is parked in the driveway and eliminating portion of the expanded driveway will make the extension useless

(Slide 5)

Lot coverage is 4.33% (610 sq. ft) above permitted 25%

- ☐ Reversing onto Beulah Road is hazardous for property owners, their family and most importantly the community – predominantly children
- ☐ Old driveway did not allow for a turn-around
- ☐ It was not plausible to turn around
- ☐ Impossible to turn-around with a vehicle parked in driveway
- ☐ Could not visualize all road hazards

(Slide 6)

1. Beulah Road narrows when starting to enter Town of Vienna, within a block of the property
2. Only property is located directly across from Holy Comforter Church and Pre-school
3. Visibility while reversing is restricted and safely reversing requires scanning in 7 directions
4. Wolftrap Elementary School is within a block with children riding bicycles and walking to school
5. NOVA Central Farmer's Market is on Sunday's in the church parking lot - bringing foot and vehicular traffic
6. Unique hardship is not shared by the other properties on Beulah Road because of property location.

(Slide 8)

1. Has about 500 active members
 - ☐ Church services and activities held during the week but there is an uptake on the weekends.

2. Has Pre-school with about 100 children enrolled and 27 staff members
 - ☐ Parents drop-off children either in their vehicle or walk them to school
3. Farmer's Market
 - ☐ Every Sunday, there is a farmer's market which brings in foot traffic and vehicular traffic

(Slide 9)

Wolftrap Elementary School

1. Some parents walk elementary children to school regularly
2. Some elementary children walk themselves to school regularly
3. Elementary school children ride bike to school, often un-accompanied – children are often distracted when riding with friends

Middle & High School Bus Stop

1. Middle & High School Bus Stop within the block of the property
2. Children walk to the bus stop as we go to work

(Slide 10)

Visibility while reversing is restricted and safely reversing requires scanning in 7 directions

- ☐ One for oncoming traffic and one for passing traffic in the opposite direction
- ☐ One way each for heavily used foot-path in each direction
- ☐ One for vehicles coming out of the church – making a left or/and right
- ☐ One for vehicles making left from John Marshall Dr to Beulah Road (198 feet away from property)

(Slide 11)

Reached out to Town of Vienna Transportation Engineer

1. Traffic Light/Speed bump: Would not address pedestrian concerns
 2. No reasonable solution to mitigate vehicular traffic
 3. Beulah Road is emergency route and major connection point
 - ☐ Obtained records from Town of Vienna Police Department
 1. Past 5 years: 1892 citations and 155 accident reports within one mile of our home
 2. Police officer often gives tickets on our block in an attempt to control speeding
- The Town should carefully evaluate the application of volume reduction remedies on ... Beulah Road,... due to the fact that each is designated a minor arterial street, a designation traditionally shown in comprehensive plans that is reserved for roads carrying high traffic volumes.
- Town of Vienna: Department of Public Works (Traffic Calming Study - 2007)

Mr. Creed asked if the applicants had brought their concern to the TSC (Transportation Safety Commission). Ms. Kannadan stated they had not and the Transportation Engineer stated it would not make sense, for one home, to install a traffic light or speed bump.

(Slide 11)

Entire new driveway is needed:

- ☐ Unreasonably restricts the use of our property to exit with public safety secured
- ☐ The property does not have street parking
- ☐ Property owner's 3rd vehicle or visitors have to park on property, expanded driveway, there is hardly enough room to turn-around
- ☐ We have an elderly driver who also resides at this property, she cannot reverse safely –

making it dangerous

- ☐ Eliminating part of the driveway will not make much differences in percent of lot coverage
- ☐ Example: 100 sq. ft is 0.71% of 14,070 sq. ft of property) 12

Reducing the new driveway by any amount makes it impractical, unreasonably restricts the use of our property with community safety secured.

Ms. Kannadan reviewed slides (13 and 14) of 9 other homes on Beulah Rd with expanded driveways. Mr. Daly asked for a picture of 602 Beulah Rd. Mr. Masih and Ms. Kannadan said they did not. Mr. Daly asked if 602 was next to their yes, Ms. Kannadan said that was correct. Mr. Daly asked if 602, 604, and 606 were all on the same lot size with the same house size and built at the same time by the same developer. Mr. Masih stated that was correct.

Ms. Kannadan stated the purpose of the slides of the other homes on Beulah was to show that 604 is going directly into the driveway of a church/pre-school/farmer's market. She then stated their home was unique in that they were the only home having to deal with that issue. Mr. Masih stated 602 does not have the same issue as they are not directly across from the church. Mr. Daly asked if you can pull forward out of their driveway, Mr. Masih stated yes, and that if a person were to back out their vision is blocked because of the pillars in the driveway. Mr. Masih also stated that the post that holds their gate blocks their vision to see traffic in either direction. Ms. Kannadan also commented on her experience with backing out of the driveway.

(Slide 15)

Safest way to exit the property is by turning around in our driveway, this way

- ☐ Driver can account for dynamic environment
- ☐ Driver has greater visibility of traffic in all directions
- ☐ Heading out, head first - the driver can swiftly react and leave the property safely
- ☐ If the Town of Vienna denies our variance request, it leaves our family and our community in harm's way on a daily basis
- ☐ Unreasonably restricts the use of our property – Unnecessary hardship
- ☐ As demonstrated this hardship is not self-inflicted
- ☐ Unique property characteristics – location & other aforementioned reasons
- ☐ Lot coverage restriction unreasonably prevents us from using the property for a permitted purpose – exiting property safely
- ☐ Neighboring properties are not adversely affected (no objection letters submitted)

Mr. Masih had a 5 minute video to show the Board Members, in the video were the old driveway (marked in chalk), the new driveway, and a sped up video of the farmers market from the previous weekend. Ms. Kannadan and Mr. Masih gave some dialogue explaining elements of the video. Ms. Kannadan stated they moved to Vienna because of the community. She stated when they bought the house she was scared to back up especially with their young child in the back in a car seat. She apologized for expanding the driveway without a permit as they did not know there was a permit process.

Mr. Rak asked if the previous owners were able to turn around in the driveway and exit facing forward. Ms. Kannadan stated she and her husband thought they'd be able to expand the driveway, and that they had met the previous owners. She said the previous owners had three children and knew about the rules. The previous owners had wanted to expand the driveway, but knew they could not. They moved one street away to be off of Beulah. Ms. Kannadan said that one of the previous owners told her she had been concerned about

safety. Mr. Masih stated the previous owners mitigated the turn-around with loose granite pavers and they would get muddy in the rain causing their vehicle to slip. The applicants also found, with the driveway application, that loose gravel or pavers were not permitted. Mr. Masih asked Mr. Simeck to correct him if he was wrong. Mr. Simeck stated that was correct, anything asphalt, concrete, or grid pavers would count towards lot coverage and gravel was not an approved surface.

Mr. Daly asked about gravel driveways since they are not an approved surface and if they counted towards the lot coverage. Mr. Simeck stated gravel is not permitted and would be in violation. Mr. Daly asked if there were homes grandfathered in. Mr. Simeck stated yes.

Mr. Gadell thanked the applicants for their thorough application. He then asked if the contractor raised concerns about permitting. Mr. Masih said the contractor was from Manassas and had not done work in Vienna before so he was not aware of permitting.

Mr. Creed asked Mr. Simeck about the approval process for the farmers market and who authorizes them. Mr. Simeck stated he believed it was approved with the Town Manager. Mr. Creed asked the applicants if they installed the fence. Mr. Masih stated the fence was installed when the house was built in 2007.

Mr. Daly again commented that the applicants included photos of many houses on Beulah, but did not include a photo of the house at 602. Mr. Daly asked why 602 Beulah was not included. Mr. Masih stated the point they were trying to make with the photos was to show the expanded driveways with the ability to turn around. Mr. Daly asked if the 602 Beulah had a turn-around put there by the builder. Mr. Masih stated that was correct.

Mr. Rak stated the expansion of the driveway seemed like it had less to do with a turn-around and more to do with parking a third vehicle as the expansion goes beyond the face of the garage. Mr. Rak asked if they would consider curtailing the expansion to address the safety issue. Mr. Masih stated, in their presentation, they explained why they need the entire expanded driveway and that it's enough for enough for one vehicle to go in, reverse out, or park. When he was calculating the portion parked on, it would only be .71% which would not be closer to getting down to 25%. Mr. Masih stated his mom would then have to park the third car on streets on the other side since they don't have on street parking.

Mr. Daly asked to go back to the page with the calculations and asked about the original driveway at 709 square feet. He then asked if the center post in the garage made the original turn-around difficult to use. Mr. Masih stated they could not use that turn-around. Mr. Daly stated the neighbor at 602 has the same original driveway the applicants had. Mr. Masih stated that was correct. Mr. Daly said the applicants could have expanded their original driveway an additional 75 square feet and be at the 25% lot coverage. With the new driveway they may be able to park 4-5 cars since it is now up to the neighbor's property. Mr. Masih stated they were one foot and a half inside their fence so they were not close to the neighbor's lot. The original turn-around was not enough space to make the vehicle turn-around. There is only enough space to park one vehicle on the side and still be able to turn-around. Ms. Kannadan stated that with their house size they should be able to park two cars in the garage and at least one in the driveway. Adding the 75 square feet it would still be difficult to get a full turn of a car as the driveway narrows when getting closer to the gate. Mr. Daly asked if their neighbors at 602 back out of their driveway. Ms. Kannadan stated they spoke with their neighbors at 602, but she felt they were unique because of what was around them and that their needs were different than those of their neighbors at 602. Mr. Daly asked how their needs were different. Ms. Kannadan stated she didn't know how the neighbors at 602 left their driveway, but that

only person goes to work from that home and he leaves very early in the morning and comes home very late. Mr. Masih stated the neighbors do not have to worry about church traffic when backing out. They also have a lower post so backing out is not as difficult.

Mr. Creed asked Mr. Simeck if he had any information to add. Mr. Simeck stated that in the zoning ordinance a single-family residential dwelling unit constructed should provide not less than two parking spaces. The two parking spaces would be the two-car garage, and then an additional parking space for any bedroom over three. There would be ample parking for extra vehicles up to a maximum of four.

The applicants thanked the Board and the zoning staff.

Mr. Creed asked for any audience members who would like to speak on the application.

Ms. Shelley Ebert of 402 Roland St. SW was sworn in to speak.

Ms. Ebert stated she was sympathetic to the applicants need to turn-around. She stated the address piqued her interest as it was owned previously by a council member. Ms. Ebert stated she had heard the applicants speak at a meeting and thought they had not expanded the driveway yet and were fully aware of the issue. Mr. Daly asked if she was speaking about the previous owner or the current applicant. Ms. Ebert stated she was speaking about the current applicant and thought they were aware of lot coverage before adding the driveway.

Mr. Creed asked if the Board members had questions or comments for Ms. Ebert. Mr. Dowler stated that the applicant stated, under oath, that they did not know. Mr. Masih stated the driveway was expanded in August of 2019 and the meeting Ms. Ebert spoke was in March of this year and spoke in support of lot coverage issues because they knew they were not in compliance.

Mr. Creed asked for a motion to close the public hearing on this agenda item.

Mr. Daly made a motion to close and Mr. Dowler seconded the motion. The motion to close passed.

Mr. Creed read a statement about the purview of the Board of Zoning Appeals. He then reminded the applicants for both agenda items that the BZA is made up of a Board of seven members and to pass there must be approval by four of the seven members.

Mr. Dowler made a motion that the application filed for a variance from section 18-24.F of the town code to retain a driveway extension in excess of the maximum lot coverage at 604 Beulah Road NE be granted. Mr. Nash seconded the motion. Mr. Creed then asked if there was discussion for the motion.

Mr. Dowler stated he was persuaded by a preponderance of evidence that an unreasonable restriction on the use of the property exists caused by their proximity to Beulah Rd, which is busy. They are also across from a busy intersection causing a hazard to their ingress and egress from their property. Mr. Dowler stated he didn't feel the extension was excessive as they need the front part to turn around and a third car on the driveway would cause them to have to back it out. He also felt it was a reasonable solution to a dangerous safety hazard.

Mr. Creed asked if Mr. Nash had anything to add. Mr. Nash stated the lot coverage was maxed out before buying the house and the applicants were dealt an unsafe situation and

they came up with a reasonable solution. Mr. Nash felt that for the interest of others and their own, regarding public safety, their request is a reasonable deviation.

Mr. Creed asked if any other Board Members wanted to speak. Mr. Petersen stated he would not support the motion for several reasons. In the RS-12.5 zone the nearly rectangular property has no irregularities, is of a very generous size, and the changes that have been made have brought lot coverage to 29.33% of the total lot coverage (25%) which was not an insignificant amount, it was a significant increase. Mr. Petersen stated he understood that the applicants felt they had a unique situation because of the nearby intersection, 500 member church, and the farmers market, but did not feel their property was unique in the immediate neighborhood or general area of that part of Vienna. Mr. Petersen said he could not support the motion, but could see the advantage and convenience if the applicants were permitted to retain the changes they made.

Mr. Daly stated he agreed with Mr. Petersen and would not vote in favor of the motion. The 25% lot coverage is a reasonable figure and they should be careful about going beyond it. There are large homes in Vienna put on typical quarter acre lots taking up a good portion of the 25%. There (on Beulah) are three identical foot prints on three identical lots, in this instance, built at the same time by the same builder. Mr. Daly stated he was surprised that 602 Beulah was not included with the application as it was the most important, in his mind, because the builder built it the same as 604, on the same size lot, with a turn-around. The applicants can use the turn-around, although it may be a pain to use, but it was a turn-around. The applicants could also take an additional 75 square feet and expand the driveway and be at the 25% lot coverage. Mr. Daly stated he agreed with Mr. Petersen that going from 25%-29% is a huge difference with a huge driveway. He felt that it was more about parking additional cars, not a safe turn-around. The owners could add the 75 square feet on to their driveway, expanding their turn-around and keep it at 25%.

Mr. Gadell stated all the Board Members had good points. The driveway was in excess and the applicants may have been able to get away with a lot less. Mr. Gadell stated that the issue of safety is what weighed on him. He felt their situation was more unique as they are directly across from Holy Comforter and that traffic (foot and pedestrian) will increase as COVID is lifted and with the new multi-use building at Church of the Holy Comforter. Mr. Gadell stated for those reasons he would vote in favor of the variance.

Mr. Rak stated he was not supportive as presently requested and that he also agreed with Mr. Petersen and Mr. Daly's analysis. Mr. Rak stated they were looking at approving something that was built in violation without a permit. Had they come in before construction for an application the Board may have seen a hardship with the need for safety, but there was no need for the pavement that goes beyond the front of the garage with the sole exception of parking an additional car. Mr. Rak stated parking another car was not justified by the safety issues.

Mr. Nash stated he thought the reason for the area beyond the house was to park a third car and were allowed to have the space. It may appear excessive, but that there was a practical point.

Mr. Rak stated he understood, but there was nothing in the zoning ordinance that was an entitlement to have a third parking space, which would be nice to have and Mr. Rak stated he would like to have one but he and others in Vienna cannot fit it in their driveway.

Mr. Daly stated he agreed with Mr. Rak. He was unhappy that something was built and there was a substantive violation. Mr. Daly stated the applicants both stated it was safe for them to pull out on to Beulah when facing front. He also pointed out that the original

turn-around seemed to be working for 602 and that at 604 they still had 75 square feet to add on to their previous turn-around making it bigger. This would allow for them to pull out on to Beulah facing forward and still be within the 25% lot coverage. Mr. Daly stated the Board needed to be concerned about decisions they make and how it may impact future development in their town and that it could become slippery slope. If this application was truly about safety that issue would go away by adding the 75 square feet.

Mr. Nash mentioned that the Board would not know if 602 was happy with their turn-around situation and how well it may or may not work for them. They may not have pursued anything because of lot coverage or financial means. Mr. Nash stated that as for the comment about a "slippery slope", all applications must stand on their own with no precedent being set.

Mr. Creed mentioned the absence of 602 Beulah's photo in the application and stated Ms. O'Brien had brought up a photo of 602 Beulah. Mr. Daly stated he was concerned that there were a lot of photos presented by the applicants, but they had left 602 Beulah out of the photos.

Mr. Creed asked for a roll call vote for the motion

Ayes: Mr. Nash, Mr. Gadell, Mr. Dowler

Nays: Mr. Petersen, Mr. Creed, Mr. Rak, Mr. Daly

The motion failed with 4 Nays and 3 Ayes

Motion: Dowler

Second: Nash

Failed: 4-3

260 Cedar Ln SE - Request or a Conditional Use Permit from §18-73.B and §18-210.II of the Town Code

Request for approval of a conditional use permit, from Section 18-73.B and 18-210.II of the Vienna Town Code to permit a drive-through for Simply Social, located at 260 Cedar Ln SE, in the C-1 Local Commercial zoning district; filed by Kathy Pao, business owner.

Mr. Hamid Matin, project engineer, of 9714 Meadowmere Dr Vienna, VA was sworn in to speak.

Mr. Matin, stated the existing building had been a bank with a drive-through that they proposed to turn it into a coffee shop with a drive-through, Simply Social Coffee. They already had the permits for construction, but they were hoping to have a drive-through window approved, but with no outdoor speakers. Customers would arrive at the window, order, pick-up from the same window and then go. Mr. Matin pointed out that the Cedar Park Shopping Center was going through a renovation and that what they were presenting this evening incorporated the new parking for the shopping center. Mr. Matin pointed out the path for the customers and stated they had already done a traffic study. The traffic study stated there would need to be ten spaces for queuing. There would be a small sign to direct traffic to and through the drive-through. The lighting used will be the down lights on the top of the menu board. Mr. Matin stated the hours of operation for the drive-through (6am-7pm) as well as how they will dispose of trash.

Mr. Dowler asked why the entrance from the shopping center on to Cedar Ln was being closed. Mr. Matin stated VDOT requested the shopping center close one of the entrances.

Mr. Dowler asked if Mr. Martin was representing the shopping center or the applicant. Mr. Martin stated he was representing Kathy Pao, owner of Simply Social Coffee.

Mr. Nash mentioned the popularity of drive-through coffee shops. He asked if there were an excess amount of cars, beyond the 10 allotted for queuing. Mr. Martin stated the number of stacking can expand further as the shopping center has enough room without interfering with traffic. The extensive traffic study showed the maximum amount would be 10.

Mr. Creed asked that the owner of Simply Social Coffee be sworn in to speak.

Kathy Pao of 11825 Waples Mill Rd Oakton, Va was sworn in to speak

Ms. Pao, stated the logistical issue of the increase of stacking that there would be a human element. An employee of Simply Social Coffee would ask the customer causing the increase in stacking to park to alleviate the congestion. Mr. Nash asked about a potential sign guiding customers to go inside. Ms. Pao stated that the shopping center may have already maxed out their signage as they just went through a sign application. Ms. Pao stated they are very hands on and ask customer to pull around as the communication seems to work really well at their current location.

Mr. Martin stated the drive lot allows for two cars to be parked side by side in the shopping center, not on a road potentially causing a backup.

Mr. Rak asked about the perpendicular parking spaces that appear to be backing out into the stacking in the site plan. Mr. Martin stated those were existing parking spaces and they would be re-stripped. Mr. Rak asked that there would not be parking spaces potentially baking up into the stacking spaces. Mr. Martin stated that was correct.

Mr. Petersen stated he had no problem with the physical arrangements when he had done a test drive through the shopping center. There was a question about the description stating orders would be fulfilled in 3-4 minutes multiplied by the 10 spaces could cause a traffic jam. Mr. Petersen was concerned about the viability of the plan of telling someone who was taking too much time to go around, or come back another time. He stated that the responsibility of the Board is to look at the safety concerns when approving conditional use permits and he was very concerned about traffic jams. He asked for Ms. Pao to address his concerns. Ms. Pao stated the entire menu is not available for drive-through. She stated some of her experience with morning traffic for the coffee shop with customer ordering one or two drinks and a breakfast sandwich. She stated the sandwiches would be made on site, and pre-ready. The timeline for customers should be shortened because the whole menu will not be available, only a drive-through menu which is designed to get customers in and out in three minutes. Ms. Pao stated she understood there would be some human error, but she believed that the morning traffic would be able to be addressed.

Joe Mehra, project transportation engineer, 4605 Pinecrest Office Park Drive Suite C Alexandria, Virginia was sworn in to speak.

Mr. Mehra, answering Mr. Petersen's question, stated the typical service rate is 142 seconds per customer with about 25 vehicles per hour being served. There is data that shows people will go inside a store when the queue exceeding four to five vehicles. Ten spaces will be adequate to meet their peak demand and additional spaces are available if needed.

Mr. Creed stated he would not want to see traffic spill on to Cedar or Park. He was

concerned that if enough vehicles were in the queue there could be a possibility for that situation. Mr. Mehra said, in the plan, there is a queue for fourteen vehicles, but if extended further there would be a possibility to park ten more vehicles before being close to Cedar.

Mr. Dowler asked if the queue could extend down to Patrick Street if available to use. Mr. Mehra stated that would be available if there was a need. Mr. Dowler stated there would be cars from Patrick St.

Mr. Creed stated the Board may want to condition that there would not be any queuing on to any public right of way. Any queuing would need to stay within the shopping center. Mr. Dowler stated that was reasonable. Mr. Creed told the applicant that may be a condition and that they would need to work with the shopping center to allow the queuing within the shopping center. Mr. Mehra stated that would be acceptable.

Mr. Creed asked if the Board members had additional questions or if anyone in the public would like to speak on the application. There being none Mr. Creed asked for a motion to close the public hearing portion of the agenda item.

Mr. Daly made a motion to close the public hearing and Mr. Nash seconded the motion.

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

Motion: Daly

Second: Nash

Passed: 7-0

Mr. Creed asked for a motion for the conditional use permit at 260 Cedar Ln SE. Mr. Rak made a motion to approve the motion. Mr. Petersen seconded the motion.

Mr. Rak stated the conditional use permit would be a good use and a good location for the use with excess for queuing. He included in his motion the condition requiring the applicant ensure the queuing does not extend onto any public rights of way.

Mr. Creed asked Mr. Petersen if the amendment to add the condition for queuing was ok. Mr. Petersen said it was okay.

Mr. Petersen stated although he has concerns about the business plan aspect, he believed it would be another useful addition to Vienna's society and business community.

Mr. Creed asked for additional comments, there being none he asked for the roll call vote.

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

Motion: Rak

Second: Petersen

Passed 7-0

Regular Meeting

Decision for:

- 604 Beulah Rd NE - Variance Request

- 260 Cedar Ln SE - Conditional Use Permit**New Business: Calendar dates for 2021 BZA Meetings**

Mr. Creed opened discussion for calendar dates for meetings in 2021. The January 20th date is inauguration day and the meeting can be moved to Tuesday the 19th. The next conflict is September 15th, Yom Kippur, can be moved to Tuesday the 14th. Mr. Creed pointed out the calendar dates and potential dates to move with the Board and staff. Mr. Creed also brought up the start time for the Board meetings. He stated that their Board started at 7:00 when most others start at 7:30. He stated he would like the Board to consider moving the start time from 7:00 to 7:30. There was some discussion regarding changing the time.

Mr. Nash made a motion to accept the date changes of January 20th to January 19th, September 15th to September 14th, and that the meeting start time changed to 7:30. Mr. Dowler seconded the motion.

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

Motion: Nash

Second: Dowler

Passed 7-0

Mr. Creed let the Board members know there would be a Town Council work session, via Zoom, on the 28th of September at 7:30pm. He stated he would be discussing the letter the Board sent to Town Council regarding their concern about conditional use permits and Family Day Homes.

Approval of the Minutes:

Mr. Creed moved to the approval of the minutes for the June 17th BZA meeting. He asked for any additions or corrections. Mr. Creed stated that on page 3 of the public hearing the minute's state: Mr. Creed some history regarding the history of modular homes...Mr. Creed asked that "homes" be changed to "buildings". Mr. Creed asked for a motion. Mr. Dowler made the motion to approve the minutes be accepted as modified, Mr. Daly seconded the motion.

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

Motion: Dowler

Second: Daly

Passed 7-0

There was some discussion regarding the potential for meeting in October.

Mr. Dowler asked if any Board members had any discussion regarding the Circuit Court overturning the decision by the Board for the variance. The Board members all agreed that they felt the judge's decision to overturn was incorrect.

Meeting Adjournment

Mr. Creed asked for a motion to adjourn. Mr. Dowler made the motion, Mr. Nash seconded the motion

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

Motion: Dowler

Second: Nash

Passed 7-0

The meeting was adjourned at 9:28 PM.

**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:

1. Hear and decide appeals from any order, requirement, decision or determination of the Zoning Administrator.
2. 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
3. Hear and decide applications for interpretation of the Zoning District Map when there is any uncertainty as to the location of the boundary line.
4. 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.