



# Town of Vienna

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Vienna, Virginia 22180  
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## Meeting Minutes Board of Zoning Appeals

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Wednesday, December 15, 2021

7:30 PM

COUNCIL CHAMBERS-VIENNA TOWN  
HALL

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### Continuity of Government - Electronic Participation

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 December 15, 2021, beginning at 7:30 PM with Jonathan Rak presiding as Chair. The following members were present in Council Chambers: Jonathan Rak with the following members participating via Zoom: Manpreet Dhanjal, Daniel Nash, Robert Petersen, George Creed, Michael Gadell, and Robert Dowler. Also attending in person and representing staff were Andrea West, Zoning Administrator, and Sharmaine Abaied, Board Clerk in town hall.

Resolution for Continuity of Government - December 15, 2021

Board of Zoning Appeals December 15, 2021, Resolution for Continuity of Government

Mr. Rak read the Resolution for Continuity of Government with Mr. Creed making the motion to approve and Mr. Gadell seconding the motion.

Motion: Creed

Second: Gadell

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

7 Ayes, 0 Nays – motion passed.

### Roll Call

Mr. Rak called the meeting to order and asked for the clerk to call the roll with all members being present.

Mr. Rak stated that Mr. Simeck, former zoning administrator retired, and Ms. West was the new zoning administrator and staff rep to the Board of Zoning Appeals.

### Public Hearings

315 Maple Ave E - Conditional Use Permit - Drive Through Facility

Request for approval of a conditional use permit from Sections §18-88.F and §18-210.II of the Vienna Town Code for a drive-through facility for a drive through ATM located at 315 Maple Ave E, in the C-2, General Commercial zone. Application filed by Michelle Rosati of Holand and Knight on behalf of Chase Bank.

Ms. West gave a brief presentation regarding the changes to the application for the Conditional Use Permit for a drive through ATM facility for Chase Bank. The

drive-through facility is unattached and adjacent to the proposed bank facility.

Mr. Creed asked where the access point would be stopped. Ms. West pointed out the existing drive aisle between the current Outback Restaurant location and Maple Ave. The location of the proposed bank facility would be closer towards Maple Ave with the drive aisle being removed to create a pedestrian connection.

Ms. West continued with her presentation for then proposed bank building. The portion of the proposed bank building that needs the conditional use permit is the proposed drive through aisle. The original proposal presented to the Planning Commission was a double drive through parallel to Maple Ave. The new proposal is a one lane drive-through lane perpendicular to Maple Ave, parallel to Glyndon on an interior lane instead of adjacent to the right of way. Ms. West then showed the facades of the proposed building and landscape plan upon completion of her presentation.

Ms. Michelle Rosati, 18776 Silver Hill Ln. Leesburg, VA was sworn in to speak.

Mr. Creed asked who Ms. Rosati was representing. Ms. Rosati stated she was representing Chase Bank.

Ms. Rosati stated the application was for a conditional use permit for a free-standing drive through at 315 Maple Ave E. This is the location of the current Outback Steakhouse that will be replaced with the new Chase Bank building. The new building will be closer to the sidewalk and will be much smaller in size. Ms. Rosati explained the steps taken with staff and other Boards and Commissions regarding the application as well as reiterating the proposed changes Ms. West stated in her presentation. Ms. Rosati stated the proposed ATM is 117 feet from the sidewalk on Maple Ave, behind the back edge on Maple Ave, as well as perpendicular to Maple Ave. The landscape plan provides plantings along Maple Ave were inspired by Vienna Vitner and the W&OD trail. Ms. Rosati continued expressing the details of the landscape plan. The bank hours will be 9-5 weekdays, and 9-1 Saturdays with the ATM being 24/7 ATM per typical ATM hours. The ATM is 450 feet from the closest residential zone. The traffic analysis submitted notes the traffic impact will be minimal. Ms. Rosati stated they believed the proposed conditional use permit met the zoning ordinance criteria, location and arrangement with well screening. The hours of operation are typical for ATM's with no audible offsite noise. The proposed location of the ATM was to ensure there was no negative impact with queuing. The plantings will provide plenty of screening.

Mr. Creed asked if the plan had been run by Chase Banks security or the Vienna Police to ensure that the vegetation allows for visibility. Ms. Rosati stated the plantings would be on the edge of the sidewalk along Maple Ave. The planting area is around 100 feet from the canopy. There will be parking lot lighting and security lighting in the canopy as well as down lighting. The lighting will create a safe location which is a focus of Chase Bank. Mr. Creed asked if there will be a ATM inside the bank building. Ms. Rosati stated there will be a walk-in ATM facility inside the 24-hour lobby of the bank building. Mr. Creed asked if both ATM locations will be visible from the street so customers can feel safe going to those locations. Ms. Rosati stated that was correct and that there would be lighting on the building and some of the signs would be lighted as well. Chase Bank has standard protocols for security lighting at all of their locations to ensure safety.

Mr. Dowler asked how the canopy and the area surrounding were lit. Ms. Rosati stated the Chase logo would be internally lit, there will be can lights shinning down, and the screen would be lit as well. The parking lot will also have visibility lighting. Mr. Dowler asked if the drive-through ATM would attract pedestrians. Ms. Rosati stated there is a visible front door walk in 24/7 ATM lobby, so the expectation is that there will not be pedestrian

walking up to the drive-through ATM.

Mr. Cody Mudd of 3444 Fairfax Dr. Arlington County, VA representing Chase Bank was sworn in to speak.

Mr. Mudd stated there would be downward facing recessed lighting making it visible and apparent to the users of the ATM. The site lighting will match that of the existing shopping center lighting. Both types of lighting will provide illumination for the area.

Mr. Creed asked for the location of the bicycle racks in relation to the drive-in area and front door of the bank. Mr. Mudd stated they would be immediately adjacent to the building within walking distance to the doors on either side of building. Mr. Creed asked if there was on set of bicycle racks and if they were close to the entrance of the front door rather than the drive-through. Ms. Rosati stated that was correct and that the location of the proposed building would be closer to the sidewalk than the existing building.

Mr. Dowler asked if the proposed 4-car queue shown in the application would be the most that the bank would have. Ms. Rosati stated she believed that would be correct, but there would be ample stacking for a drive-through. It would be rare that there would be a 4-car stacking at the drive-through.

Mr. Creed understood that the location of banks was not the purview of the Board but expressed his concern about the location of the proposed Chase Bank as it was near several other banks. He stated that he was concerned that there would be a traffic issue. Mr. Creed asked if they felt traffic could be an issue. Ms. Rosati stated that Chase had been through the many facets of the approval process and that Chase Bank stated it was the location they desired.

Mr. Rak asked if any other Board members or members of the public would like to speak on the application. There were none, so Mr. Rak asked for a motion to close the public hearing portion of the meeting.

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

Motion: Mr. Petersen

Second: Mr. Nash

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

7 Ayes, 0 Nays – motion passed.

Mr. Rak asked for a motion.

Mr. Dowler made a motion that the application filed by Chase Bank for a conditional use permit for the construction and use of a single-lane drive through lane facility pursuant to section 18-210.II on the property located at 315 Maple Ave E be granted.

Mr. Petersen seconded the motion.

Mr. Dowler stated that the drive-through application before them was one of the better they had been seen. There was more room for the stacking of automobiles, it would not present a hazard to the health and safety of the community.

Mr. Rak stated he appreciated the work Chase put in with staff as well as the work and efforts of town staff.

Mr. Creed stated he felt traffic may be put out through shopping center entrances and exits causing traffic specifically those going in and out of the bank and those going to through the drive through ATM's. Mr. Creed stated he would like to see some traffic restrictions.

Mr. Dowler stated that the drive-through was before the Board. The number of cars anticipated to use the drive-through was limited. The other elements in the shopping center parking lot is not what the Board is to decide. There had been a restaurant there previously that may have had more traffic which was indicated in the traffic report.

Mr. Rak asked for any additional discussion, there was none so he asked for a vote.

Motion: Mr. Dowler

Second: Mr. Petersen

Ayes: Mr. Dhanjal, Mr. Nash, Mr. Petersen, Mr. Rak, Mr. Gadell, and Mr. Dowler.

Nays: Mr. Creed

6 Ayes, 1 Nays – motion passed

## **Regular Hearing**

### **Election of Officers**

Mr. Rak stated the final item of business was the election of officers.

Mr. Creed stated the election was typically done in January. Mr. Dowler stated it was changed in the past year or so to allow the new officers to take their spot in January.

Mr. Rak stated that customarily the Chair and Vice-Chair serve a one-year term. Mr. Rak asked for a nomination for the position of Chairman for the BZA for 2022.

Mr. Dowler nominated Mr. Nash

Mr. Creed seconded the motion and made to move by acclamation.

Mr. Rak accepted the acclamation motion making Mr. Nash's Chairman a 7-0 vote.

Mr. Rak asked for nominations for a Vice-Chair for the Board

Mr. Rak nominated Mr. Dhanjal for the position of Vice-Chair

Mr. Petersen seconded the motion

Mr. Rak stated the motion could be accepted by acclamation as well making Mr. Dhanjal's Vice-Chair position a 7-0 vote.

### **Approval of the Minutes:**

Mr. Rak asked if there were any corrections to the minutes. Mr. Creed stated there were some typos that need to be corrected.

Mr. Petersen made a motion to approve the minutes as corrected.

Mr. Creed seconded the motion.

Motion: Mr. Petersen

Second: Mr. Creed

Ayes: Mr. Dhanjal, Mr. Nash, Mr. Petersen, Mr. Rak, Mr. Creed, Mr. Gadell, and Mr. Dowler  
7 Ayes, 0 Nays – motion passed

Mr. Rak stated that the applicant from the current application had contacted him. He had reached out to the Town Attorney regarding ex parte communication. Mr. Rak went into further detail about ex parte communication. He also stated there would be an email going out to Board members regarding more information about ex parte communication.

Mr. Petersen stated he and the Board members appreciated the guidance Mr. Rak provided as Chair under difficult circumstances and the Board thanked Mr. Rak.

Mr. Creed thank Mr. Rak and the entire Board for the past two years working under the difficult circumstances.

Mr. Rak thanked staff members and Edgar in IT for all the work the past few years.

## Meeting Adjournment

Mr. Petersen motioned to adjourn the meeting

Mr. Gadell seconded the motion

Motion: Mr. Petersen

Second: Mr. Creed

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

7 Ayes, 0 Nays – motion passed

The meeting was adjourned at 8:25 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

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. During the public hearing each agenda shall be closed a decision will be rendered.

The grant of a Conditional Use Permit, Variance, or appeal from a decision by the Town's Zoning Administrator requires an affirmative vote of no less than a majority of membership, of the Board. The Board consists of 7 members and a majority consists 4 members. If the applicant is unable to stay for the Board's decision portion, the applicant may learn the Board's decision by contacting staff.

The second portion of the meeting – the Regular Meeting – is for approval of meeting minutes and new business and will convene after the Public Hearing has been closed.

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.