



Legislation Details (With Text)

File #: 19-1458 **Version:** 1 **Name:**
Type: Action Item **Status:** Agenda Ready
File created: 10/4/2019 **In control:** Town Council Meeting
On agenda: 10/21/2019 **Final action:**
Title: Public hearing on appeal of Board of Architectural Review's September 19, 2019 approval for Vienna Market located at 245 Maple Avenue West

Sponsors:

Indexes:

Code sections:

Attachments: 1. Anderson 1 Oct 2019 Petition, 2. Staff Memo - Appeal to Council of BAR Approval of Vienna Market, 3. Elevations w Edits_PF-21-19-BAR_Vienna Market_Sept 2019, 4. 245 Maple Ave signed BAR Order 9-19-19, 5. DRAFT -BAR_Septemberr 19, 2019_Meeting Mins Agenda Item 1, 6. Elevations_Aug 2019_PF-21-19-BAR_Vienna Market_New Construct, 7. 245 Maple Ave W Signed BAR Order 8-16-19, 8. BAR_August 15 2019_Posted Minutes, 9. Regulatory Requirements for Agenda Items - Public Hearing to Appeal BAR Decision of Vienna Market, 10. Notice of Public Hearing - BAR Appeal, 11. Anderson 1 Oct 2019 Petition, 12. BAR Appeal - Chuck Anderson full petition

Date	Ver.	Action By	Action	Result
10/21/2019	1	Town Council Meeting	approved	Pass

Subject:

Public hearing on appeal of Board of Architectural Review's September 19, 2019 approval for Vienna Market located at 245 Maple Avenue West

EXPLANATION AND SUMMARY :

An appeal, of the Board of Architectural Review's September 19, 2019 approval for Vienna Market, located at 245 Maple Avenue West, was filed with the Town Clerk by Charles and Laura Anderson of 125 Pleasant Street NW on October 1, 2019.

The appeal was filed in accordance with Chapter 4 - Architectural Design Control of the Town Code, Sec. 4-12. - Same-Appeals of decisions.

Sec. 4-12. - Same-Appeals of decisions.

Whenever the Board of Architectural Review shall, in a final decision, approve or disapprove, or waive jurisdiction over any application filed pursuant to this chapter, the applicant, or any other person with justifiable cause, shall be entitled to appeal such decision and be heard thereon before the Town Council; provided that there is filed with the Town clerk, on or before 14 days after the decision of the board, by the appellant, a notice in writing of such appeal and a fee of \$125.00, or as otherwise set forth in the schedule of fees adopted by the Town, to cover the cost of advertising for the council hearing; provided, further, that whenever such notice of appeal is filed by a party other than the applicant, such notice shall be accompanied by a petition for such appeal in writing, signed by 20 electors of the Town. Upon the filing of notice of appeal as provided herein, the Town clerk shall thereupon schedule a

public hearing before the Town Council, not more than 30 days after the filing of such notice; provided that no such hearing shall be had unless and until the Town clerk has caused to be published at least once in a newspaper of general circulation within the county, at least seven days before such proposed hearing, an advertisement stating the time, date and place of the hearing before the council, the location of the property involved, the name of the applicant and the nature of the building for which approval is sought.

Sec. 4-13. - Hearing before Town Council.

On any appeal to the Town Council, the final decision of the Board of Architectural Review shall be stayed pending the decision of the Town Council. The council shall conduct a full and impartial public hearing on the matter before rendering any decision. The same procedure and standards shall be applied by the council as are established for the Board of Architectural Review. The council may affirm, reverse or modify the decision of the board, in whole or in part. The decision of the council shall be final, subject to the provision of section 4-14.

Departmental Recommendation : Staff finds that the Board of Architectural Review's September 19, 2019 approval for Vienna Market, located at 245 Maple Avenue West, followed standards and criteria as defined in Sec. 4-15. - Design criteria of the Town Code.

Finance Recommendation : N/A

Purchasing Recommendation : N/A

Town Attorney Recommendation : Upon appeal of the Board of Architectural Review's decision, Town Council should conduct a public hearing in accordance with Chapter 4 of the Town Code and review the application for a certificate of approval in accordance with provisions of Town Code Sections 4-15 and 4-16 below:

Sec. 4-15. - Design criteria.

The Board of Architectural Review, and, on appeal, the Town Council, shall use the following standards and criteria in considering applications filed under this chapter:

- (a) Whether or not the proposed architectural design is suitable for a good suburban community in terms of external architectural features, including signs subject to public view, general design and arrangement, texture, color, line, mass, dimension, material and lighting.*
- (b) Whether or not the proposed structure, building or improvement is compatible with existing well-designed structures, acceptable to the board, in the vicinity and in the Town as whole.*
- (c) Whether or not, and to what extent, the proposed structure, building or improvement would promote the general welfare and protect the public health, safety and morals by tending to maintain or augment the Town's tax base as a whole, generating business activity, maintaining and creating employment opportunity, preserving historical sites and structures and making the Town a more attractive and desirable place in which to live.*
- (d) Whether or not proposed freestanding buildings use the same or architecturally harmonious materials, color, texture and treatment for all exterior walls; and in the case of partially freestanding buildings, whether or not the same or architecturally harmonious materials, color, texture and treatment are used on all portions of all exterior walls exposed to public view.*
- (e) Whether or not the combination of architectural elements proposed for a structure, building or*

improvement, in terms of design, line, mass, dimension, color, material, texture, lighting, landscaping and roofline and height conform to accepted architectural principles for permanent buildings as contrasted with engineering standards designed to satisfy safety requirements only; and exhibit external characteristics of demonstrated architecture and aesthetic durability.

- (f) *Whether or not, in terms of design, material, texture, color, lighting, landscaping, dimension, line, mass, or roofline and height, the proposed structure, building or improvement is designed to serve primarily as an advertisement or commercial display, exhibits exterior characteristics likely to deteriorate rapidly, would be of temporary or short-term architectural or aesthetic acceptability, would be plainly offensive to human sensibilities or would otherwise constitute a reasonable foreseeable detriment to the community.*

Sec. 4-16. - No specific architectural style to be required.

The Board of Architectural Review, and the Town Council on appeal, shall not adopt or impose any specific architectural style in the administration of this chapter.

Town Manager's Recommendation : I recommend the Town Council, after the closing of the Public Hearing, affirm, reverse or modify the decision of the Board of Architectural Review, at its discretion.

Cost and Financing: N/A

Account Number: N/A

Decision Needed by This date: October 31, 2019

PROPOSED/SUGGESTED MOTION

"I move to (***affirm, reverse or modify***) the decision of the Board of Architectural Review made September 19, 2019 to approve Vienna Market located at 245 Maple Avenue West."

Or

Other action deemed necessary by Council.