

**MEETING MINUTES**  
**OF THE**  
**FREDERICK COUNTY BOARD OF ZONING APPEALS**

Held in the Board Room of the Frederick County Administration Building, 107 N. Kent Street, Winchester, Virginia, on June 15, 2021.

**PRESENT:** Eric Lowman, Chairman, Red Bud District; Reginald Shirley III, Opequon District; Dudley Rinker, Back Creek District; Dwight Shenk, Gainesboro District; John Cline, Stonewall District; and Ronald Madagan, Member at Large.

**ABSENT:** Kevin Scott, Vice-Chairman, Shawnee District

**STAFF PRESENT:** Mark Cheran, Zoning Administrator; and Pamala Deeter, BZA Secretary

**CALL TO ORDER**

The meeting was called to order by Chairman Lowman at 3:30 p.m. and he determined there is a quorum.

Chairman Lowman led the Pledge of Allegiance.

On a motion made by Mr. Shenk and seconded by Mr. Cline, the minutes for the April 20, 2021, meeting were unanimously approved as presented.

Chairman Lowman inquired if there are any applications for July, Mr. Cheran stated yes, the cutoff date is Thursday, June 17, 2021.

Mr. Cheran express that the agenda cover page states 30-foot left yard and the Applicant applied for an 80-foot left yard variance.

**PUBLIC HEARING**

Chairman Lowman read the request for **Variance #05-21 for Sonya May**, submitted by R. L. Hayes Enterprises, LLC requesting for an 80-foot left yard variance to a required 100-foot left yard setback which will result in a 20-foot left yard setback and a 32.9-foot right side yard variance to a required 50-foot right side yard setback which will result in a 17.1-foot right side yard setback for a single-family dwelling. The property is located 1621 Brucetown Road, Clear Brook, and is identified with Property Identification Number 34-A-15 in the Stonewall Magisterial District.

Mr. Cheran came forward to present the variance. The property is in the Rural Area (RA) Zoning District and the land use is residential. The adjoining properties are RA and Extractive Manufacturing (EM) Districts. Staff expressed the location map has a dwelling on the parcel; the Applicant will be removing the dwelling. Staff showed the proposed plat with new dwelling. Mr.

Cheran mentioned that due to the size of the property of 1.020+/- acres and is narrow the Applicant cannot meet the RA setbacks.

Staff made comments that the property was created in 1967 and the current zoning is RA. Frederick County adopted zoning in 1967. In 1967, the property was zoned A-2 (Agricultural General) per the historical maps. The adoption of the ordinance the setbacks were 35-feet for the front, 15-feet for the side yards and 50-feet to the rear. The Ordinance was amended in 1989 which changed the A-2 Zoning to RA. The Board of Supervisors amended RA zoning setbacks in the Ordinance on February 28, 2007. Mr. Cheran stated that is the current setback today of 60-feet to the front, 100-feet to the left side, and 50-feet to the rear and side yard.

Staff reiterated the setback request from the Applicant.

Mr. Cheran read The Code of Virginia 15.2-2309 (2) and Code of Frederick 165-1001.2, states that no variance shall be granted unless the application can meet the following requirements:

- 1) The property interest for which the variance is being requested was acquired in good faith.
- 2) The granting of the variance will not be a substantial detriment to adjoining property or nearby properties in the proximity of that geographical area.
- 3) The condition or situation of the property concerned is not of so general or recurring as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.
- 4) The granting of the variance does not result in a use that is otherwise permitted on such property or a change in the zoning classification of the property.
- 5) The relief or remedy sought by the variance is not available through a special exception or the process for modification of a zoning ordinance.

This proposed variance appears to be consistent with the character of the District; and meets the intent of The Code of Virginia and the Code of Frederick County. This request from current setbacks of the RA (Rural Areas) Zoning District may be justified.

Chairman Lowman ask the Applicant to come forward.

Ms. Robin Hayes was representing the Applicant. Ms. Hayes mentioned that if the Board had any questions, she would try to clarify the question.

Mr. Shirley noted that there is hardly a difference from the old setback to the new setback.

Chairman Lowman ask is there anyone here wishing to speak for or against this variance. No one came forward.

## **PUBLIC HEARING CLOSED**

### **Discussion/Comments**

No comments or discussion

One a motion made by Mr. Cline that Variance #05-21 for Sonya May be approved and was seconded by Mr. Rinker. The vote was unanimous.

Mr. Cheran gave an update on the court case.

On a motion made by Mr. Cline to adjourn meeting and seconded by Mr. Shirley 4:15.



Eric F. Lowman, Chairman



Pamala Deeter, Secretary