

REGULAR MEETING OF THE BOARD OF ZONING APPEALS

Community Center, Teen Center

223 Little Falls Street

Falls Church, Virginia 22046

April 12, 2018

7:30 p.m.

1. CALL TO ORDER

CHAIR CALABRESE: I call the April 12th meeting of the Board of Zoning Appeals to order.

If I could ask staff to call the roll.

2. ROLL CALL

RECORDING SECRETARY: Mr. Williamson.

MR. WILLIAMSON: Here.

RECORDING SECRETARY: Mr. Calabrese.

CHAIR CALABRESE: Here.

RECORDING SECRETARY: Mr. Jones.

MR. JONES: Here.

RECORDING SECRETARY: Mr. Sprouse. He is absent.

Mr. Misleh. Mr. Misleh is absent.

Mr. Bartlett.

MR. BARTLETT: Here.

RECORDING SECRETARY: Thank you.

CHAIR CALABRESE: And so Mr. Bartlett is the alternate, correct, so then he'll be a voting member today?

MR. BOYLE: Correct.

CHAIR CALABRESE: And we do have a quorum.

MR. BOYLE: Yes.

CHAIR CALABRESE: However, you're the petitioner for the New Business here today?

MR. WINGROVE: Yes, sir.

CHAIR CALABRESE: When we get to that, we'll talk about the implications of being short.

3. PETITIONS

CHAIR CALABRESE: There are no Petitions to hear.

MR. BOYLE: No, sir.

4. OLD BUSINESS

CHAIR CALABRESE: No Old Business to hear.

MR. BOYLE: No, sir.

5. NEW BUSINESS

A. Variance application V1600-18 by Roy Wingrove, applicant and owner, for a variance to Section 48-238(3)(a) to allow (1) a front yard setback of 22.67 feet instead of 30 feet, and (2) a rear yard setback of 20 feet instead of 22.15 feet for the purpose of constructing a 2-story addition on premises known

as 107 Jackson Street, RPC #52-501-040 of the Falls Church Real Property Records, zoned R-1A, Low Density Residential.

CHAIR CALABRESE: And then the New Business item would be the variance application V1600-18 by Roy Wingrove, applicant and owner, for a variance to Section 48-238(3)(a).

So before we have you sworn in, I just want to notify you that because we are short one member, just to confirm with staff, that you do have the right, you need a majority of this for this variance to be approved. So you do have the right to have this continued to the next hearing, the next meeting.

MR. WINGROVE: Okay.

MR. BOYLE: That's correct. It takes three to approve a motion. So it's your option to continue to the next meeting or hear it tonight.

MR. WINGROVE: Okay. And there's, if I needed to, an appeals process I could go through?

CHAIR CALABRESE: Appealing a decision you mean?

MR. WINGROVE: Yes, sir.

CHAIR CALABRESE: Well, there is. It's not through us. There's appeals. I think the appeal would be through the Circuit Court, wouldn't it?

MR. BOYLE: Yes.

CHAIR CALABRESE: You would have to go to Circuit Court.

MR. BOYLE: I believe it's been our practice to allow a request for continuation right up to the moment a vote is taken. We have had some come at the last minute where the Board's made suggestions of how to reorganize, so you could present and then decide.

MR. WINGROVE: Okay. That's fine. We'll move forward.

CHAIR CALABRESE: So, with that, we'll ask you to stand.

(Witness sworn.)

CHAIR CALABRESE: So, Mr. Boyle, if you want to explain the situation of this application.

MR. BOYLE: Yes, sir. This is for two setback variances on the property at 107 Jackson. And the setbacks are the front and the rear.

What we have basically is a decent size lot but it's rotated 90 degrees compared to how you normally see a building lot. Normally the narrow side faces the street, fronts the street and goes back in a rectangle. This one's rotated so that the wide piece is the street frontage, is what's facing the street frontage.

That results in a very shallow front and rear. The variance is asking specifically for the front yard setback of 22.67 feet instead of 30. This is an R-1A property. The 22.67 is essentially where the house sits now in the front.

And then the rear is a little unusual. It's asking for a rear yard setback of 20 instead of 22.15 in the rear. The 22.15 is arrived at by a formula that the Code allows for substandard lots. So when we take the depth of the property by 30 percent, that results in 22.15. So it's a little unusual number. The by-right setback, rear setback is 22.15 feet. The house happens to sit at 20 so it's already in the setback and so that explains the jumble of numbers there.

CHAIR CALABRESE: You mentioned the front, the front again you said, the number here is 27.8. You said the front was -- what was the number you gave at the front of the house?

MR. BOYLE: 22.67.

MR. WILLIAMSON: Where's the house sitting in the rear? It's at 22?

MR. BOYLE: It's at 20 on the nose.

MR. WILLIAMSON: It's already at 20.

MR. BOYLE: Yeah.

MR. WILLIAMSON: Okay. So it's already at 20. But the front yard is where?

CHAIR CALABRESE: This says 27.8 here.

MR. BOYLE: Yeah, I see it says 27.8 on the survey.

MR. BARTLETT: So technically it's already in the existing setback.

MR. BOYLE: Yeah, front setback of 22.1 -- 22.67.

Let me complete setting this up and then we're going to have to clarify that.

It's a simple variance application in that Mr. Wingrove wants to do a second story addition to complete a two and a half story house. And both of the setbacks require a variance to complete this construction. And neither of those are locations on the property that staff has authority to approve.

We did get one comment from the neighbor directly to the rear. Did the Board receive that statement?

CHAIR CALABRESE: Yes.

MR. BOYLE: She said she may be here. If I recall the concern with that was that it not encroach any closer to the rear, any further to the rear.

CHAIR CALABRESE: I think the 22.8, as I look at the third one, is actually for the porch. And then there's another 5 feet which would be 27. Look at number -- the third plat, C-01.

It's this one here.

MR. WILLIAMSON: Yes.

MR. BARTLETT: Yeah, he's requesting it to be 22.8.

MR. BOYLE: Oh, I see.

MR. BARTLETT: And adding the porch which isn't there right now.

MR. WILLIAMSON: So, no change in the back.

MR. BOYLE: Correct. And then adding the addition and a front porch to the front.

CHAIR CALABRESE: An addition and the front porch. The addition is not -- to the side, is not requiring a variance.

MR. BOYLE: That's correct.

CHAIR CALABRESE: So that's already within the side setback.

MR. BOYLE: Correct. They have plenty of room on either side. The standard setback is 15 feet so they're good on the right and plenty of room on the left.

CHAIR CALABRESE: And the rear, they're within the setback, and is that where the neighbor who commented is from?

MR. BOYLE: Yeah, she lives at what is indicated as lot 1-A on the plat, directly behind.

MR. BARTLETT: Can I ask for clarification? On your left side proposed setback, distance from the line? I'm looking at this document with all four schematics. Is this dashed line the property line?

CHAIR CALABRESE: Well, let's just close off with Mr. Boyle and then we can go with the --

MR. BARTLETT: Okay.

MR. BOYLE: Did we want to read into the record the letter or just note that it's added to the file, the letter from the neighbor?

CHAIR CALABRESE: Yes, why don't you since she's not here and then we can ask Mr. Wingrove. Why don't you do that and then we'll finish up your portion and then we'll ask for the applicant.

MR. BOYLE: Okay. This is to the Board of Zoning Appeals from Sonia Ruiz Bolanos, Ph.D. She lives at 102 West Rosemary Lane, property directly behind 107 Jackson.

"As the direct neighbor who shares the entire back yard, I would like to please ask that the Board of Zoning Appeals ensure the house and future construction at 107 Jackson not encroach more on the required and existing setbacks.

"Having just gone through the process of building a home, no variances, we did our due diligence when we purchased our lot. As such I would hope those who purchase homes in the City of Falls Church would do so as to not buy properties with the expectation that a variance be granted. This sets a slippery slope of a precedent as you well know.

"Our required setback in the rear yard is of 40 feet. The current home's rear yard is at 20 feet. I completely understand that the lot is considered substandard but I also know you don't purchase a substandard lot with the expectation of a variance.

"Allowing the variance in the rear yard with additional floors going up needs to be carefully reviewed, given the purpose of setbacks in the City of Falls Church and the

additional square footage, not to mention it would also impact existing trees and canopy.

"We have two young children playing in the back yard and as a mother I obviously want to ensure their safety at all times and understand the purpose of setbacks and minimizing risks.

"I hope to attend the hearing on Thursday. Thank you for your consideration. Signed, Sonia Ruiz Bolanos, Ph.D."

And that's the only comment from the public that we have.

And with that, I think I'll defer to the applicant's presentation.

CHAIR CALABRESE: Any questions for Mr. Boyle?

(No response.)

CHAIR CALABRESE: Okay. Sir, can you identify yourself and then present your variance.

MR. WINGROVE: Yes. Roy Wingrove. I'm the applicant here.

To address what he had just spoke about on the email, the setbacks won't change for the rear of the house. So, in other words, we're not bumping this back any further. We're not encroaching any further into that 20 foot that's already there.

I think the reason that that was stated in there for the setback of the front and rear is because the addition which is going to be at the same, exact setback line of the existing

property, because we're building that there, from what my understanding was is that we have to ask for that variance so that it still could run across that same line.

The front, what we're basically doing, we're going to try and keep the same line with the addition as what the porch is which is 5.2 feet. So there's a two car garage and then there's approximately 10 feet I think it is with the addition there, that basically we would bump that out again longways on the lot there.

So the front of that addition would be along the same perpendicular line with the porch itself so that everything looked uniform.

And then just going up from there but still maintaining the 25 foot height restriction for halfway up the gable so not to encroach above that at all.

I've driven through the neighborhood and looked at multiple houses that are in there. I think it fits pretty much in general with what's already in the neighborhood, what's already been approved in there.

I think that's pretty much it. Any questions?

CHAIR CALABRESE: Mr. Bartlett, you had some questions.

MR. BARTLETT: I have a quick question about the layout of the actual proposed structure and the different pictures you're showing here.

MR. WINGROVE: Okay.

MR. BARTLETT: If you look at C-1, I'm looking at the bottom left schematic here and a bunch of lines. And I'm wondering what that 12 foot 0 inch measurement indicates and then there's another 7 and a half foot number to the left. Is that to the property line?

MR. WINGROVE: 12 foot.

MR. BOYLE: Where do you see the 12?

MS. ROUZI: It's right here.

MR. BARTLETT: You're looking at a different version of the schematic.

MR. WINGROVE: Sorry about that.

MR. BARTLETT: That's okay.

It wasn't the original C-1 that was presented.

MR. BOYLE: Yeah, there are two.

CHAIR CALABRESE: So C-01 and C-1.

MR. BARTLETT: It's C-01, is the entire plot and you're saying you're going to have a 19 foot left side setback?

MR. WINGROVE: That's correct.

MR. BARTLETT: And there's no, even with the first, second, and second and a half story -- where is that?

MR. WINGROVE: Yeah, that's not to infringe on any of that. That should be 19.1 or 19 foot one inch on the left side of the property. If that's what you were asking.

MR. BARTLETT: We're obviously looking at different numbers here, different documents. They're just not consistent.

MR. WILLIAMSON: I don't understand because this C-1 shows the addition not coming parallel with the porch. The porch comes out, which I think you're allowed to bump the porch out. The garage is even with the house on this picture. But then this C-01, the addition is even with the porch.

CHAIR CALABRESE: And actually in the side setback here, or the side is 25 feet on C-1 and it's 19.1 on the C-01.

MR. BARTLETT: In addition, these numbers are all different, the addition numbers, the garage square feet. So, is this dated 3-6 -- no, they're all dated 3-6.

MR. WINGROVE: Yeah. I may have printed out the wrong one before he revised it. And I apologize. I was hoping he was going to be able to be here tonight.

MR. BOYLE: If I could, let me ask, this is important to clarify. You've raised an issue.

MR. WINGROVE: Yes, sir.

MR. BOYLE: On your submission tonight with the color house picture on the front, it's C-1, does this include the garage?

MR. WINGROVE: Yes. That includes the garage. So looking at this here, this is the garage here with the addition here.

MR. BOYLE: So the proposed setback with the garage --

MR. WINGROVE: Is the 19.1.

MR. BOYLE: -- will be 19.1.

MR. WINGROVE: 19.1, yes, sir.

MR. BOYLE: Okay. That's a relief. I thought we were looking -- now here, the piece the Board has, the garage goes inside the setback.

MR. WINGROVE: No, that's not accurate.

MR. BOYLE: Did the Board see that?

MR. BARTLETT: Yes.

MR. WINGROVE: I see the concern there.

CHAIR CALABRESE: Which one? Can you show me?

MR. BOYLE: On the one labeled C-1 in the Board's packet.

CHAIR CALABRESE: Yeah. That says 25 feet instead of 20 -- 25 feet on the side.

MR. BOYLE: I think on your stack underneath with the clip.

CHAIR CALABRESE: Oh, this one, the original.

MR. BOYLE: Yes. It's the original. Page C1.

MS. ROUZI: It's the big sheet.

CHAIR CALABRESE: Oh, yeah. This is completely different.

MR. BARTLETT: Can I ask a question? Which house are you planning on building? You have two different houses here. You have one with two front facing --

MR. WINGROVE: Two front gables on the front.

MR. BARTLETT: Or are you building this house, with no gables on it?

MR. WINGROVE: No. And I don't know why that was put in there.

MR. BARTLETT: So these are two different homes. One has a second floor addition of 1494; one has a second floor addition of 1917. One has a total square footage of 3180 and one has a total square footage of 49 -- 5439.

MR. WINGROVE: Can I see that?

MR. BARTLETT: Yeah, sure.

MR. WINGROVE: This is the one that we were looking at. But that doesn't look proper there.

This was the style that we were doing with the gables on the front and the gables on the rear. But it wasn't going this far in. This was only supposed to be 10 foot so we're not encroaching on the 10 foot line. And I thought this was the one that he emailed me here.

CHAIR CALABRESE: One problem at this point we're going to have is if we were to get to a vote here, I think there's enough confusion that we don't know what we'd be voting on.

MR. WINGROVE: Yeah.

MR. WILLIAMSON: What I would say is we would want you to be able to put your best variance package forward.

MR. WINGROVE: Yeah, that's what I thought I had.

MR. WILLIAMSON: Right. And I don't think you'd want the Board to be confused in trying to evaluate that and subsequent what the public record would be.

I mean, I think we understand how these things can happen. At least I understand how these things could happen. I don't want to speak for my fellow Board members but I understand how this could happen.

I would be open to just continuing to next month so you have the right package in place and you're able to fairly present what you want to do and we can fairly evaluate it.

MR. WINGROVE: Yeah, I agree.

Is there any way that you can email me over what he had sent you? Because I think some of the emails that he sent me or cc'd me on I was not getting. I will sit down with him. I apologize about wasting all of your time on this.

MR. WILLIAMSON: Well, we're familiarizing ourselves with the project.

If we do elect to do that, we will need someone to make a motion.

MS. ROUZI: Here's a full package of what we received from your engineer.

MR. WINGROVE: That would be fantastic.

CHAIR CALABRESE: One thing too if I could recommend.

MR. WINGROVE: Yes, sir.

CHAIR CALABRESE: If we decide to do a continuance, there's several criteria that we have to evaluate for a variance. One is whether your ability to do this, if you're not able to do it, it kind of irreparably harms your ability to enjoy the property, in so many words.

Number two, whether it harms a neighbor, whether they're harmed. And the third one is not quite relevant here.

So I recommend when you present, that you address those issues, and especially now since we have the comments from the neighbor. She mentioned some specific issues, canopies, trees, her children. We'd be asking you questions about those issues.

MR. WINGROVE: What was the first one you mentioned again, I'm sorry?

CHAIR CALABRESE: She had mentioned the trees. You're talking about the neighbor's comments?

MR. WINGROVE: No, you said --

CHAIR CALABRESE: Well, the law states that in order to grant a variance, we have to establish that if you are not able to -- that this is the only option for you to be able to essentially build a house, you know, renovate your house in a way that makes the house usable essentially; that if you couldn't do it in this manner, you essentially can't renovate the house.

MR. WINGROVE: Correct.

CHAIR CALABRESE: So you would want to assert to us that this is the only way, if that's correct, that you would be able to do that.

MR. WINGROVE: Absolutely.

CHAIR CALABRESE: So I don't want to put words in your mouth but just to address that.

And then because we have someone who has objected, you would want to make sure you fully address that. And we want to make sure if she's not going to attend -- would we notify the neighbor that this matter has been continued or is that her obligation to.

MR. BOYLE: Generally we don't; however with the exception of people who have expressed an interest, we would let her know.

CHAIR CALABRESE: If I may recommend, Mr. Wingrove, too, that if you were to resolve any of her concerns, if you wish to engage with her, I don't -- perhaps that could help.

MR. WINGROVE: Yes. I can stop by and talk to her.

CHAIR CALABRESE: Many times we've had petitioners come in and they've already talked to the objecting parties.

MR. WINGROVE: Absolutely. I'm a big believer in that conversation goes a long way. So, absolutely. Okay.

CHAIR CALABRESE: Any other comments?

(No response.)

CHAIR CALABRESE: So I would entertain a motion at this time.

MR. WILLIAMSON: I would state that given the status of the materials and the questions that the Board has regarding differing pages within the materials and the applicant's desire to come back with a consistent set of materials and present the variance application, I would move to continue this Variance Application V1600-18 until the Board of Zoning Appeal's next regularly scheduled meeting in May 2018.

CHAIR CALABRESE: Is there a second?

MR. JONES: Second.

CHAIR CALABRESE: Any discussion?

(No response.)

CHAIR CALABRESE: If you could call the vote please.

RECORDING SECRETARY: Mr. Williamson.

MR. WILLIAMSON: Yes.

RECORDING SECRETARY: Mr. Calabrese.

CHAIR CALABRESE: Yes.

RECORDING SECRETARY: Mr. Jones.

MR. JONES: Yes.

RECORDING SECRETARY: Mr. Bartlett.

MR. BARTLETT: Yes.

RECORDING SECRETARY: Thank you.

MR. BOYLE: Mr. Chair, that will be the May 17th meeting. And any materials you need the Board to see, we need to have by May 9th.

So, May 17th, and materials by May 9th.

MR. WILLIAMSON: So there won't be a readvertisement of this matter? Whatever normally is done. I'm just curious.

MR. BOYLE: We generally don't readvertise but we do let citizens that have -- if we had someone in attendance tonight, we'd let them know.

MR. WILLIAMSON: Right.

MR. BOYLE: Since she submitted a letter, I think we'd contact her.

MR. WILLIAMSON: Okay.

MR. WINGROVE: What was her name?

MR. BOYLE: I'll get you her email.

MR. WINGROVE: That would be great.

MR. BOYLE: The substance of her letter. We'll send her a letter and we'll see if we can connect. I don't think we can release her contact information but I'll ask if she's agreeable.

MR. WINGROVE: Okay.

MR. BOYLE: But we have to identify where she lives so it's easy enough to reach out and communicate with her but I'll make sure first she's comfortable speaking with you.

MR. WINGROVE: Okay.

MR. BOYLE: But I'll share that, her email with you.

MR. WINGROVE: Fantastic. I appreciate that.

Thank you very much.

CHAIR CALABRESE: Okay. We'll go on to Approval of the March 15th minutes.

MR. BOYLE: Can I interrupt?

CHAIR CALABRESE: Yes.

MR. BOYLE: I have to apologize to the Board. We had a heck of a time getting a straight answer from this applicant about what exactly he was asking for. But we missed a glaring disparity in what -- well, no, I should say what he submitted to us was -- is completely different than what he brought tonight. And tonight was the first time we saw the package he wanted to bring. So I think that's one reason for the confusion.

But he insisted throughout our discussions that he was doing a second story addition going straight up and as soon as you started questioning the difference in the front setback, I'm going, "oh, geez, here we go."

CHAIR CALABRESE: It's a different design.

MR. BOYLE: We couldn't get him to submit anything that was remotely making sense to what he was asking. And we finally thought we had it squared away and here we are on the record, it's like, no, we missed it again.

If I'd been a little bit more diligent, we probably wouldn't have scheduled this but I think he's have something of

a dispute with his engineer and so we've got probably about three versions of what he's asking for.

CHAIR CALABRESE: Well, in fact, maybe that's a good point. He had asked you to send him what you received. I guess I would recommend that he bring what he has. It's not really your obligation. Whatever you have may or may not be correct.

MR. BOYLE: Yeah.

CHAIR CALABRESE: You have no way to judge that. It's just what you've received. I think he should go back to whoever designed that and bring that to us.

MR. BOYLE: Well, I apologize to the Board. I think if we'd really scoured over this again, we would have detected there was additional problems. But the real kicker was when he showed up tonight with a very different plan.

CHAIR CALABRESE: Okay.

MR. BOYLE: We always take the position of you're welcome to petition your government and make your request, but we would like the application to at least be consistent. And we had, as I said, a real problem with communication with him and his engineer. He's been talking with us for a couple of months about this now.

So, anyway, my apologies and he won't come back before you without a presentation that you can approve or deny.

CHAIR CALABRESE: Thank you.

6. APPROVAL OF MINUTES

a. Approval of the March 15, 2018, meeting minutes

CHAIR CALABRESE: Okay. So let's review the March 15th minutes. I'll just note that I did not attend it.

We'll go through these. Let's start with lines 1 through 97.

MR. JONES: We need a majority to approve on this as well?

MR. BOYLE: Yeah. You need three votes to approve a motion, so, yeah, there would be a motion to approve.

MR. JONES: I was also absent. So we wouldn't have a --

MR. BARTLETT: That leaves just Mr. Williamson and I.

CHAIR CALABRESE: Yeah, that wouldn't be enough to --

MR. BOYLE: Ah, good point.

Would the Chair like to continue the matter?

MR. BARTLETT: That's a great point, Mr. Jones.

MR. JONES: Thank you. I have them occasionally.

MR. BOYLE: Let's take a vote and I'll study it. I think we need to take a look at --

CHAIR CALABRESE: Take a vote on the minutes.

MR. BOYLE: Yeah. That's not in the Code.

(Minutes reviewed.)

CHAIR CALABRESE: So I'll entertain a motion but it would probably have to include some mention of lines 134 to line 143.

MR. WILLIAMSON: I would move to approve the minutes of March 15, 2018, contingent on changing Mr. Bartlett's name in lines 134 to 143 to Mr. Misleh.

CHAIR CALABRESE: Is there a second?

MR. BARTLETT: I'll second that motion.

CHAIR CALABRESE: Discussion and a vote.

RECORDING SECRETARY: Mr. Williamson.

MR. WILLIAMSON: Yes.

RECORDING SECRETARY: Mr. Calabrese.

CHAIR CALABRESE: Yes.

RECORDING SECRETARY: Mr. Jones.

CHAIR CALABRESE: Wait. I'm sorry. I abstain.

MR. BOYLE: That's right.

RECORDING SECRETARY: Mr. Jones.

MR. JONES: I will also have to abstain.

RECORDING SECRETARY: Mr. Bartlett.

MR. BARTLETT: Yes.

RECORDING SECRETARY: Thank you.

MR. BOYLE: You might be right on the minutes. It might just be majority.

CHAIR CALABRESE: You have a digital library, I assume, of all the meetings, the recordings.

MR. BOYLE: Yeah, we just love to go back and listen to them. The AAB is interesting as well.

7. OTHER BUSINESS

CHAIR CALABRESE: Any Other Business?

MR. BOYLE: No, sir.

8. ADJOURNMENT

CHAIR CALABRESE: Okay. If not, I'll entertain a motion for adjournment.

MR. WILLIAMSON: I move to adjourn the meeting of April 12, 2018, of the Board of Zoning Appeals.

MR. BARTLETT: I'll second that motion.

CHAIR CALABRESE: No discussion.

Roll call.

RECORDING SECRETARY: Mr. Williamson.

MR. WILLIAMSON: Yes.

RECORDING SECRETARY: Mr. Calabrese.

CHAIR CALABRESE: Yes.

RECORDING SECRETARY: Mr. Jones.

MR. JONES: Yes.

RECORDING SECRETARY: Mr. Bartlett.

MR. BARTLETT: Yes.

RECORDING SECRETARY: Thank you.