

REGULAR MEETING OF THE BOARD OF ZONING APPEALS

Community Center, Teen Center

223 Little Falls Street

Falls Church, Virginia 22046

May 17, 2018

7:30 p.m.

1. CALL TO ORDER

CHAIR CALABRESE: I'm going to ask the staff to call the roll please.

2. ROLL CALL

RECORDING SECRETARY: Mr. Williamson.

Mr. Williamson is absent.

Mr. Calabrese.

CHAIR CALABRESE: Here.

RECORDING SECRETARY: Mr. Jones.

Mr. Jones is absent.

Mr. Sprouse.

MR. SPROUSE: Here.

RECORDING SECRETARY: Mr. Misleh.

MR. MISLEH: Here.

RECORDING SECRETARY: Mr. Bartlett.

MR. BARTLETT: Here.

CHAIR CALABRESE: Okay. So we have several items on the Agenda.

3. PETITIONS

CHAIR CALABRESE: First of all, are there any Petitions for this meeting?

MR. BOYLE: No, sir.

If you would, I think I started the recorder a few seconds late, so for the secretary I'd like to reiterate that this is the May 17, 2018, meeting.

Thank you.

No Petitions.

CHAIR CALABRESE: Okay. So we have three items: We have some Old Business, New Business, and then the Minutes. And upon recommendation, we're going to switch the order of the Old and New Business.

5. NEW BUSINESS

a. Special Use Permit application U1579-16 by Sellaperumage Ruth Shaw, applicant and owner, for an extension to a Special Use Permit, granted on April 14, 2016, to continue to operate an existing home daycare without expiration, on premises known as 1004 N. Roosevelt, RPC #53-212-011 of the Falls Church Real Property Records, zoned R-1B (Medium Density Residential).

CHAIR CALABRESE: So we're going to first hear the Special Use Permit application, U1579-16 by Ms. Shaw.

So before we do that, if I can ask, anyone today who's going to be testifying, if you would take the oath.

(Witnesses sworn.)

CHAIR CALABRESE: Okay. So, Ms. Shaw, you'll start. Can we have a report from staff on this application?

MR. BOYLE: Yes, sir.

And could we get your signature here please.

Thank you.

Mr. Chairman, this is for a renewal of a Special Use Permit No. U1579-16 that was approved back in April, April 14th of 2016, for a Special Use Permit to operate a home daycare.

At that time the Special Use Permit went to the Planning Commission and received a recommendation of approval with a number of conditions and as required by Code, this Special Use Permit was approved with a two year expiration and the matter is required to come back before the Board for a renewal. And at this time the Board has the option to approve, deny, or approve with limitations.

Staff can report that we've had no complaints on the operation of the Use Permit since it began and I think at that time there was considerable support from the neighbors and the neighborhood and staff would not object to a renewal.

And typically if there had been no complaints and the conditions had been met, the Board considers an open-ended approval so that the applicant does not have to come back to renew.

And the Board has the authority, in the event that you did approve an open-ended Special Use Permit, if any of the conditions were not satisfied at any time, the applicant can be brought back in to discuss those issues. So, an open-ended approval doesn't necessarily mean that you'd lose the authority to review the compliance with the conditions.

So at this time staff would support an approval and ask the Board to consider an open-ended approval of the Special Use Permit.

CHAIR CALABRESE: Let me ask, I recall us approving this. You mentioned the Planning Commission approved it. Was that after we had approved it?

MR. BOYLE: Special Use Permits for residential uses go to the Planning Commission for recommendation. And you should have in your materials the Resolution. If you don't, I can provide a copy of that.

The second page of that Resolution has the conditions from the Planning Commission, actually just two of the conditions on the first page and then the remaining conditions on the second page.

The approval back in April 2016 was unanimous by the Board with the stipulation that it be good for two years.

CHAIR CALABRESE: And before we ask Ms. Shaw, I recall the issues that we had discussed at the time involving parking, dropping off, and the number of children that were there. As you're saying, the limitations were set by the Planning Commission.

MR. BOYLE: Yes. They presented a number of conditions. I think the Board embraced those as prudent to impose at that time. So as part of this discussion you could continue those conditions, or adjust them, revise them, as part of the deliberation tonight.

CHAIR CALABRESE: Any questions for staff?

MR. BARTLETT: John, has staff verified that the applicant is in compliance with the conditions currently?

MR. BOYLE: Yes. To be honest, the easiest way to do that is whether we've received any complaints from the neighbors or police, and it seems to fit very well into this neighborhood. And I think it's a popular resource for the neighbors.

MR. BARTLETT: Is the applicant required to submit the State-issued license for verification for this hearing?

MR. BOYLE: No. That's between them and the State.

MR. BARTLETT: I understand.

CHAIR CALABRESE: Any other questions?

(No response.)

CHAIR CALABRESE: All right. Ms. Shaw, do you want to --

MS. SHAW: This is day care, also day care. I was eight years before that with state license. And then I get 8 kids. I get on very well with the parents, and all the neighbors. Some of the neighbors also comes to my daycare. And so no complaints actually.

That's all I have.

CHAIR CALABRESE: Ms. Shaw, how many children are there right now?

MS. SHAW: Eight.

CHAIR CALABRESE: As you recall, we had concerns about that being on a busy road and the means by which the parents would drop off. How is that being done?

MS. SHAW: They come in with the children, come and go but no involve with the main road and because in front of me, the main road, all this time no problem.

MR. SPROUSE: Ms. Shaw, how many children are you licensed to have?

MS. SHAW: Eight.

MR. SPROUSE: Eight. That's the State license?

MS. SHAW: Yes.

MR. SPROUSE: But you requested originally ten?

MS. SHAW: But they said just to have eight last time --

MR. SPROUSE: Our Board, but how many does the State of Virginia allow you to have?

MS. SHAW: Up to ten.

MR. SPROUSE: Up to ten, okay.

Are the hours still 7 a.m. to 5:45 right now?

MS. SHAW: Yes. 7:30 to 5:45.

MR. SPROUSE: 7:30. Is there any desire on your behalf to expand that, those hours for late pickup?

MS. SHAW: Most of the time the parents come 5:45, 6 sometime. They come as early as 7:30. Some parents, teachers, they come early. And then the others come early too.

CHAIR CALABRESE: Any other questions?

MS. SHAW: They don't come all the same time.

MR. SPROUSE: Yes. Traffic as well.

MS. SHAW: First two years only then they're staying with us.

MR. SPROUSE: Okay.

MS. SHAW: After that, they go to stay someplace else.

CHAIR CALABRESE: Other questions? And then we'll close the questioning.

I guess one thought would be is the conditions that were set which as I recall, I guess some of them were conditions, I thought that we had set some of the conditions but what you're saying, Mr. Boyle, is it actually was the Planning Commission who had set these and we just acceded to those?

MR. BOYLE: Yes. This looks like the typical result of the Planning Commission, setting some conditions. This sounds like the concerns they usually raise.

CHAIR CALABRESE: Okay. We had concerns about the busy traffic, the drop-off, the number of children, and so as you say, you agreed to eight and that's in the conditions here. Eight children. The hours of operation, compliance with City Code, transferrable -- and the driveway. You said there were no problems but the concern was that all dropoffs be done in the driveway.

MS. SHAW: Yes.

CHAIR CALABRESE: And not on the busy road where there could be a problem.

MS. SHAW: They use my driveway.

CHAIR CALABRESE: They use your driveway, okay.

And then the staggered arrival and departure. That was a concern that if everybody came at once the -- your driveway couldn't sustain that, because it was too narrow.

MS. SHAW: Yeah. Sometimes two or three of them come. In winters maybe they will come one. Right now, two of them at a time or one. Not clearly more than that.

CHAIR CALABRESE: You're saying it is staggered, that they're not all coming at once, is that what you're saying?

MS. SHAW: No one came all at one time, normally.

MR. BOYLE: Mr. Chair, looking at my notes, the conditions actually were set by the BZA that evening.

CHAIR CALABRESE: Yes, I think I recall, I think Mr. Krasner identified a couple of these.

MR. BOYLE: That's why it sounds like the Planning Commission.

CHAIR CALABRESE: Exactly because he's now on the Planning Commission. That would make sense.

I can't of course make the motion. If someone wanted to make a motion, if they were supportive, I would personally think that retaining the existing conditions makes the most sense and if it is policy that the second, the renewal is typically an open-ended or indefinite renewal, but with the right to revisit and/or observe at any time and that would seem to insure that these conditions are adhered to.

So I guess my recommendation would be for us to approve it with the same conditions for an indefinite period.

MR. SPROUSE: I'll make that motion.

I make a motion to approve the Special Use Permit application U1579-16 by applicant and owner for an extension in perpetuity of the Special Use Permit granted on April 14th, with the one amendment to scratch No. 1, that this Special Use Permit shall be valid for two years from April 14, 2016.

CHAIR CALABRESE: Is there a second?

MR. MISLEH: I second.

CHAIR CALABRESE: Call the vote please.

RECORDING SECRETARY: Mr. Calabrese.

CHAIR CALABRESE: Yes.

RECORDING SECRETARY: Mr. Jones.

MR. JONES: I missed the applicant's presentation so I have to respectfully abstain the vote.

RECORDING SECRETARY: Mr. Sprouse.

MR. SPROUSE: Yes.

RECORDING SECRETARY: Mr. Misleh.

MR. MISLEH: Yes.

RECORDING SECRETARY: Mr. Bartlett.

MR. BARTLETT: Yes.

RECORDING SECRETARY: Thank you.

CHAIR CALABRESE: Congratulations.

MS. SHAW: Thank you.

CHAIR CALABRESE: Okay. So the record should note that Mr. Jones is here for the meeting.

4. OLD 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 feet instead of 30 feet, and (2) a rear yard setback of 20 feet instead of 22.15 feet, and a variance to Section 48-1102(b)(2)(c) to allow a height of 28.5 feet instead of 25 feet for the purpose of constructing a 2.5 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: Okay. So we'll move on to Old Business. And this is the variance application by Mr. Wingrove who was here last time. You're asking for a variance for a front yard setback and rear yard setback. And as you recall, we had some concerns about the materials that we were presented with, there were some inconsistencies.

Mr. Boyle, do you have any update as to the status of this application?

MR. BOYLE: Yes. Based on the discussion we had last time, it was clear that the entire scope of what was being requested had not been conveyed or staff misunderstood. In any sense, I was concerned that what was advertised was not what was actually being requested.

So with the assistance of the applicant and his engineer --

MR. WINGROVE: Yes, sir.

MR. BOYLE: -- I think we have a much clearer picture of what is being requested and probably would be best just to jump back into that conversation and staff can provide some clarification on why these particular numbers are being requested. It's an unusual non-conforming lot.

But with that, I think we'll defer to the applicant.

CHAIR CALABRESE: Questions for staff?

MR. MISLEH: Yes. John, I missed the last meeting. For my benefit, did staff have a recommendation on this or do you have a recommendation based on the new request?

MR. BOYLE: We don't typically have a recommendation for applications of this nature other than to say I think this Board historically has seen these types of variances before. Maybe not all in a package like this but these are very typical requests for relief that we see. The shortcomings of the lot in particular are seen quite a bit around Falls Church and so these are not unusual requests.

MR. MISLEH: Thank you.

MR. SPROUSE: John, just to make sure because I was also not here at the last meeting, the only change to the structure is vertical, is that correct?

MR. WINGROVE: No, some to the front. We're adding the front porch and the addition will have -- will be in line with what the front porch is. So the rear is not, we're going to keep the exact same in the rear as currently there.

MR. BRONSTON: The addition on the left side.

CHAIR CALABRESE: Just for clarification for those of you who were not here, Mr. Wingrove had presented his variance petition last month, yet the materials he presented were inconsistent. They had differing values for the setbacks,

numerous in the documents, so we weren't able to evaluate the application.

MR. WINGROVE: Yes, sir.

CHAIR CALABRESE: So before we finish, any questions for Mr. Boyle, and then we'll ask you, Mr. Wingrove, to perhaps explain what happened with that and then maybe explain what we have before us.

Are there any other questions at this time?

(No response.)

CHAIR CALABRESE: Would you please, I would like to know kind of what happened the last time.

MR. WINGROVE: Yeah. I think there were some conflicting emails that I received from both Mr. Bronston and what had actually went to the Planning Commission. So when I was pulling up the information to put my information of what I was going to present, I think I had some original sketches, and that's why we had such differences there on where the setbacks were and where the actual structure was going to go.

So we are on the same page. We put in a lot of hours trying to make sure we got everything in and exactly what we sent over to the Planning Commission is exactly what I printed out.

CHAIR CALABRESE: If you can explain then please.

MR. WINGROVE: Yes. Basically if you look at the sketch on there, there's a legend there, the zoning requirements

for where the setbacks can be are in red. If you see the outline in red there, that's what the setbacks are. The yellow is what's already existing. So that's the existing structure there.

The only thing we're changing on that is the inside wall to the left if you're looking at it where the addition is going, that wall will be removed. And then everything that you see in the green is where the addition is going to go.

So if you look at right in front of the existing, this is where the porch is going to be, right there in front of the existing front. So where that porch runs along the front is where the addition is going to end at. So it's all going to be in a nice even line which you can see on there, the following page or, I'm sorry, the following two pages. That's what the structures will look like once they're done.

So the garage, the front of the porch, everything will be in perfect line across there. And then again, we are going up vertically at that point.

So I think there was some concern last time about in the back, are we going further into the setbacks. We're going to keep what's existing there but it's already, I think it's 2.2 feet.

MR. BRONSTON: On the front. The existing encroachment is 2.2.

MR. WINGROVE: 2.2 in the front.

MR. BRONSTON: 2.15 in the back.

CHAIR CALABRESE: So front is the -- to the right. Towards the front is this direction. This side here.

MR. WINGROVE: That's correct.

MR. BRONSTON: The Jackson Street side is the front.

CHAIR CALABRESE: Right. So I understand, the yellow represents, that's the existing house. That's what's non-conforming, but currently existing, non-conforming.

MR. WINGROVE: Yes.

CHAIR CALABRESE: The green, I understand the green on the front is certainly beyond that but the green on the back side, that was not there. I see you're adding.

MR. WINGROVE: Yeah, we're adding that but it's just going to be in the same -- it's going to encroach in the same area that the existing structure is so it still will just be one. The setback will be the exact same for where everything is already.

Of course it's a variance because it's already outside the setback at this point.

CHAIR CALABRESE: Did we hear from some neighbors, I'm trying to recall, on this the last time?

MR. BOYLE: Yes, sir. The neighbor directly behind was concerned about I think how tall it was going to be and how close to the rear. So the consideration there -- we did not

hear from her again. She did receive a notice for this meeting tonight.

The consideration there, as the applicant said, it's not going any closer to the rear than the current house and the height is one of the substandard features of this lot. The height of the house is reduced, when there's a formula in the Code based on how substandard the lot area is. So instead of the 35 feet by right to the midpoint, it's reduced based on the shortfall of the lot square footage. And that's reflected in one of the variances for the height.

So it's -- I don't want to speak for the neighbor but I think the fact that it's not projecting closer to her property at the rear and it's not going full height as a by-right house would go is something worth considering.

CHAIR CALABRESE: I'll let others speak but just a quick clarification though.

The green is new in the back.

MR. WINGROVE: Yes, sir.

CHAIR CALABRESE: How much space -- how deep is that? What are you adding there?

MR. BRONSTON: That's the same 2.15. It just matches the existing encroachment to keep the back line of the building straight across instead of having it drop there.

CHAIR CALABRESE: It's 2 feet.

MR. BRONSTON: Yeah, 2 feet, 2 inches I guess.

MR. SPROUSE: Is there sheered footing or anything off that back corner of the existing house that you guys are utilizing? So are you utilizing any of the existing house or is this a rebuild?

MR. WINGROVE: Yeah, we're keeping the existing house. So, the majority of the existing house will stay. We're taking out one wall obviously with the addition there to open up the floor space.

MR. SPROUSE: But is there any structural reason to tie on to that back corner?

MR. BRONSTON: No, that's mostly just to keep the line, the visual straight line. We're doing some foundation work there. By adding a level to the house, we have to redo the footing.

But as far as that line, it's just to keep a good straight line.

MR. MISLEH: And the height's within the height limit for the lot?

MR. WINGROVE: It's I believe a little bit higher than what the limit is because the lot size is a substandard size so based on what the percentage, and chime in if I'm off base, because of the substandard size, we don't have the 35 feet which is what the standard height size is. Our lot's a substandard lot so it's smaller. It think it's about 66 percent of what the

traditional lot sizes are, so therefore, we can't go up to the 35. We're not asking to go up to the 35. I think it's 20 --

MR. BRONSTON: The allowable based on the reduced area of the substandard lot would be 25 and we'd like to get up to 28 1/2 feet --

MR. WINGROVE: Midpoint of the gable.

MR. BRONSTON: Which is still not a real tall house.

Right. That's the midpoint of the gable.

MR. MISLEH: It looks to me like it's 33.

MR. BRONSTON: 33 total.

MR. WINGROVE: The height is 33 for the height to the roof. It's 28 and a half is what they measure the -- I think you said the gable.

MR. BOYLE: Yes, the Code measures house height to the midpoint of the -- between the ridge and the gables. And again, that's arrived at by -- I think the lot size is 7384 square feet. The minimum by Code is 11250. So when we do the math on that, it drops from 35 down to 25 maximum by Code. So their one variance is to take that 25 up to 28.5.

So had the lot been conforming for area, they'd be allowed to go to 35 feet. The substandard nature is dropping that down to 25 and they're requesting an increase over that 25 to 28.5, measured to the midpoint of the ridge.

MR. BARTLETT: John, can I ask you a question about that.

MR. BOYLE: Yes.

MR. BARTLETT: Is it to the actual protrudance (sic) from the house or where it intersects with the wall do you measure from?

MR. BOYLE: Building height is measured around the foundation to the midpoint between the ridge and the gable.

MR. BARTLETT: So if they extended it 10 feet further out, they could actually -- it would be measured from the roof or the wall?

MR. BOYLE: The building height?

MR. BARTLETT: Yes. On this photo, A-2, they are measuring the halfway point from the roof line, the top of the roof to where the actual secondary roof line ends, three or four feet outside from the house.

MR. WINGROVE: From the fascia, the low point of the fascia instead of where it intersects the wall.

MR. BARTLETT: The question is does that midpoint start from where it intersects with the wall or if they just extend it out further?

MR. BOYLE: Oh, I see. No, it's from the end of the roof. I guess the easy way to describe it is where the gutters would be.

MR. WINGROVE: The fascia?

MR. BARTLETT: Uh-huh.

MR. BOYLE: If you made a -- this is a dormer I think here?

MR. WINGROVE: Yes.

MR. BOYLE: So here's the main roof structure. If you made -- put a base across that and made a triangle, it's half the height of that triangle is where the building height is measured to. They indicate what the peak is but in our Code we measure to the midpoint of the ridge. So it is from end of roof to the peak.

MR. JONES: Could you speak a little bit to the considerations you gave for the design of this. Was there any consideration given to keeping it within the existing footprint or why the need for additional square footage here or if there was a hardship that you tried to address or was this strictly aesthetics such that it's going to sell better.

MR. WINGROVE: No, the existing house there, there's a lot of damage to the existing house. There's floor damage inside the house. The roof, there's some damage to the roof already. Anything that we would try and do to the house inside, we're basically going to have to gut the entire house and a foundation.

So the additional aspect here, some of it is for additional living space but mainly I guess the hardship aspect would be because we have to do changes to the house itself and staying within that footprint would be very difficult.

We're already, because of the substandard size, any addition that I try and do to the house whatsoever I would have to get a variance for it.

Does that make sense?

MR. SPROUSE: It's about a 24 foot depth envelope. Is that right?

MR. WINGROVE: Yes, sir, it is.

MR. SPROUSE: And 70 feet wide. So it's a bowling alley.

MR. WINGROVE: Yes, it is. It's very much -- the lot, it's 90 degrees turn. So instead of having a deep lot, like a lot of lots have, this one is turned sideways. So we're keeping within that to put the house right there within that footprint.

MR. SPROUSE: It's an interior lot too, right?

MR. WINGROVE: Yes, sir.

CHAIR CALABRESE: So following up on Mr. Jones' question, he's correctly identifying under the law you have to show that you're harmed. You would be harmed if you could not build the house in this manner; that is to say there is no other really viable option.

So, let me just ask you that, is that what you're saying, that there's really no other viable option that would not require you to get a variance.

MR. BRONSTON: One of the things I'd like to point out is I ran the garage there. First of all, there's no garage on

this site and so we really want to add a garage to this building. We have an attached garage. And right now, the way I'm showing it is 22 feet -- wait a minute. That's 24 feet including the walls.

So when you put the garage there, that leaves a very small area on the back. With the additional 2 feet that lines up with the existing rear wall, then we get an 8 foot space behind the garage which is about as low as we can go to really have that functional back there. Unless we were to just extend the garage all the way to the back wall which we don't really need to do because we don't need that much garage space.

MR. WINGROVE: I think the hardship, the question that you're asking, anything that I try to do with this house, the cost factor to try and do any improvements to the home would just be astronomical. I would just virtually have to tear the house down and build a new house. At that point I would still be coming in front of the Board to get a variance approval on that for that.

What we're trying to do is keep the existing structure itself there and build an addition on to that since we're already asking for the variance.

There's multiple houses right there in the neighborhood, a lot of them have just been torn down and new houses built there, much greater size, 5-6000 square feet.

CHAIR CALABRESE: Have you spoken to any other neighbors? You have the woman behind. How about to the left and the right?

MR. WINGROVE: I have not spoke to them.

MR. BRONSTON: The house on the right has been added to I believe. I didn't talk to them. There's quite a large house going on the corner, on 29.

MR. WINGROVE: And then the one across the street that's currently being built right now.

MR. JONES: Mr. Wingrove, do you intend to occupy the home when it's complete?

MR. WINGROVE: No.

CHAIR CALABRESE: Any other questions?

MR. BARTLETT: What is the footprint of this, the finished house going to be? In the previous materials you had the square footage of the new proposed house and how it would compare to the allowable percentage of the lot. So I don't know if they would need a variance for that request as well to exceed because I think the last presentation you had the square footage of the proposed house actually exceeded the allowable percentage of the lot.

MR. WINGROVE: Percentage based on the lot?

MR. BARTLETT: Uh-huh.

MR. WINGROVE: Yes. We were under that. What's the square footage?

MR. BRONSTON: That's a good question. I don't have those numbers written down. I know there was a question about the land area disturbance of 2500 feet. We're well under that.

MR. BARTLETT: You're 72 -- you're 73.

MR. SPROUSE: We'll say 26 by 70. That's right about where it is.

MR. WINGROVE: Yeah, that's approximately.

MR. SPROUSE: Because you're taking up the entire length of the building and then your existing footprint which doesn't go any deeper is 26 feet.

MR. WINGROVE: Correct.

MR. BARTLETT: So you're about 1800 square feet, does that sound right?

MR. WINGROVE: Yes.

MR. BRONSTON: Yes.

MR. WINGROVE: Plus the driveway. Part of that is the garage.

MR. SPROUSE: And this is still going to be a narrow -- a shallow house. You're in the building profession; so what is a typical depth of a home today?

MR. BRONSTON: 32 feet.

MR. SPROUSE: And they would go back as far as 50, 60 feet in some cases?

MR. BRONSTON: Sure.

MR. SPROUSE: But a standard home today would be 30, 32 feet?

MR. BRONSTON: If you have one burrowing line down the middle of the house, then your front and rear spans are going to be 14 to 16 feet, maybe 18 feet; and if you use the TJIs, or the 2 by 12s even, you can get up to like 19 or 20 feet which would make it a 40 foot deep house.

But a typical span for like a Rambler is going to be in the range of 30 to 32 feet, something like that. This existing one at 26 feet is very, very narrow.

MR. SPROUSE: How many bedrooms are you putting in this?

MR. WINGROVE: Four.

MR. SPROUSE: Four bedrooms. How many baths?

MR. WINGROVE: Three.

MR. BARTLETT: It's basically conforming with the neighborhood?

MR. WINGROVE: Yes, sir.

MR. SPROUSE: Is there a market for a three bedroom, two and a half bath in Falls Church City right now?

MR. WINGROVE: I would say there might be. I'm not as familiar with the market there. I don't know what the market would be for that.

MR. SPROUSE: Smaller new homes, is there a market for that in Falls Church City?

MR. WINGROVE: I haven't seen many smaller new homes. Mostly just existing homes that are already there. Those are the only ones that I see going up on the market as much.

MR. SPROUSE: If this lot were turned, you could do one of those kind of narrower, almost townhouse style --

MR. WINGROVE: Yes, sir,

MR. SPROUSE: -- pencil houses.

MR. WINGROVE: Yes. Which is similar to the house that's next door.

MR. SPROUSE: Because it's not turned and your frontage has to come out on Jackson Street, that produces the hardship on the depth, is that correct?

MR. WINGROVE: Yes, sir. And again, on the depth, we're going to keep that uniform across the back so it's not encroaching any more on any of the neighbors there. And then the front will just be, we'll have the setback there.

MR. SPROUSE: The existing home, if it weren't a builder, could someone go into that home as it is and do an interior renovation and make it a habitable home?

MR. WINGROVE: There's going to be some structural work that they have to do.

MR. SPROUSE: So they'd still have to come back for a variance.

MR. WINGROVE: Yes, sir, I believe so.

MR. SPROUSE: But not on the back portion that's currently yard.

MR. WINGROVE: Correct, because we don't have to change anything on the back portion.

CHAIR CALABRESE: Any other questions?

(No response.)

CHAIR CALABRESE: We'll close this portion of the case.

Any comments from Board members about this application?

MR. BARTLETT: I would just like to say that I think John is doing some calculations before we proceed.

MR. BOYLE: I think what's proposed is over the building coverage.

MR. SPROUSE: It's over the building coverage?

MR. BOYLE: Yeah.

Do you have the square footage of what's covered by roof?

MR. BRONSTON: I just calculated the footprint as 1930 square feet.

MR. BOYLE: Does that include the existing porch?

MR. BRONSTON: Yes. That's a 30 by 34 addition and a 26 -- no, that does not include the porch which would be another --

MR. BOYLE: Yeah. Everything with a roof.

MR. BRONSTON: Then we're at 65 by 34 --

MR. SPROUSE: It's 1930, is that what you said?

MR. BOYLE: The lot is 7384.

MR. BRONSTON: I come up with 2210, roof covered.

Which gives us 30 percent coverage.

MR. BOYLE: Yes, that's correct. There's a 25 percent maximum building coverage. And this looks to exceed that.

There's things you can do with cantilevers.

What's the total over?

MR. BRONSTON: 4.93 percent.

MR. BOYLE: Yes, that's right. About 364 square feet.

CHAIR CALABRESE: Mr. Boyle, you're saying that this design exceeds the --

MR. BOYLE: -- maximum building coverage.

MR. WINGROVE: We're good without the porch.

CHAIR CALABRESE: So, I'm sorry, sir, your name, Mr. Bronston?

MR. BRONSTON: Yes, Bronston.

CHAIR CALABRESE: You designed this?

MR. BRONSTON: Yes.

CHAIR CALABRESE: This is the second time that we have heard a petition from your client about this house and now we're hearing that it was a mistake the first time and now we're hearing that there's a problem with this submission, am I being correct?

MR. BRONSTON: I think the first time we went through several iterations with the plan and the paperwork got confused.

CHAIR CALABRESE: I guess I recall. This is the second time now we're going to have to -- we can't approve this in its current form.

MR. WINGROVE: Is there any adjustments that we can make or agree to --

CHAIR CALABRESE: Well, the plan in front of us does not conform to the requirements of the law and the Code. Is that correct or am I not correct?

MR. BOYLE: I think the Board could consider a motion with a stipulation that it not exceed the 25 percent and --

MR. WINGROVE: They would have to build within --

CHAIR CALABRESE: This plan though doesn't do that. This plan is 30 percent you're saying.

MR. BOYLE: No, they'd have to do something, the 25 percent is everything covered by roof. So they'd have to remove that porch or a combination of cantilevers, with construction techniques that used cantilevers. But it's very speculative at this point.

MR. JONES: I don't think the Board is the place to negotiate those changes. I think that's something you would need to do with staff before coming to the Board for approval.

MR. SPROUSE: Yeah, we're over 364.

MR. BRONSTON: Well, it's a simple matter to take the porch off.

MR. WINGROVE: So if I remove the porch, then I'm still within those realms.

CHAIR CALABRESE: You have to do a new plan. We want to see a plan in front of us that conforms to the law and is accurate and not full of errors.

MR. BARTLETT: And I would just add that if they do come back, you have all the information that we need. There was information in the first version of your application that included more information than this application and it seems like that information is missing. I'm not sure if it's intentionally or negligibly but it seems that information is not here for a reason and if you do come back, it needs to be complete.

MR. WINGROVE: What information was missing?

MR. BARTLETT: Your percentage of your building plot.

MR. BRONSTON: That was an unfortunate oversight on my part. I apologize that that was not on there. I did not consider the 25 percent limit on the lot coverage. And I dealt with that recently in Fairfax.

CHAIR CALABRESE: I'm sorry, isn't that a basic requirement? I mean, I don't understand how that could be overlooked.

MR. BRONSTON: Well, I was considering all the setbacks in trying to get the house laid out.

CHAIR CALABRESE: Well, there's multiple considerations that have to be made. We're all professionals here.

I'm very frustrated and disturbed by the constant -- I don't think we've ever had someone come in three times because of their own errors. We try to be accommodating to people but this is -- we're all busy people and this is bordering on wasteful.

MR. WINGROVE: Well, I don't remember seeing the lot coverage limitation on the --

CHAIR CALABRESE: It's in the law, isn't it?

MR. WINGROVE: -- on the setback.

CHAIR CALABRESE: It's in the Code, isn't it? The Code is the Code. Ignorance of the law is no excuse. That is what is in the law. You should be aware of that if you're going to be building a house.

MR. WINGROVE: Of course.

CHAIR CALABRESE: I'm sorry.

Well, I don't think we can proceed anything further with this and if you decide to come back, I suppose it's within your rights. But this Board -- speaking for myself, is none too pleased with the series of applications that appear each time to have errors and differing errors each time. I don't know.

I'll ask others for their comments.

MR. JONES: I think that sums up my side. I agree with my colleague.

MR. BRONSTON: Well, I thank you for your time and your consideration. I'll ask though that -- how should we address the -- we're already over the required setback limits. What can we do with that?

CHAIR CALABRESE: You need to figure that out. This is your house, this is your job, is to figure out how to make it conform with the law. I'm not here to explain to you --

MR. BRONSTON: Right, I understand.

MR. WINGROVE: We'll make the adjustments.

CHAIR CALABRESE: I've never heard of anyone asking that question to the body that's supposed to decide it.

MR. BRONSTON: I'm sorry. I didn't mean I'm asking you to decide that. I'm just pointing out that you're saying if we come back. I mean, we still have unresolved issues.

CHAIR CALABRESE: Then you're going to have to resolve them, I'm sorry. I mean, you need to resolve them.

MR. BRONSTON: Right. Of course.

MR. WINGROVE: Is that the only issue that you see, is the structure size of the house conforming to what's allowable by law?

MR. JONES: I think we evaluate the package based on what you're requesting at the time you submit the conforming

application. It's an all inclusive application. So I don't know that asking this Board or this body to comment on one particular item is appropriate.

MR. BRONSTON: No, we don't want you to set the package for us. I do appreciate your time. But I don't want to leave it too open-ended because we do need to come back. We still have unresolved issues. So I kind of like to have a plan of action and I think what we'll do is revise it to meet the lot area coverage requirement.

CHAIR CALABRESE: Well, obviously you have to do that.

I would just also suggest, if this had not come up, I was going to ask about the neighbor who had concerns. Who had concerns in the first go-round and appeared not to make any comment this go-around and I was going to state if we had not seen this, that since she did not respond, that I was going to assume that she was now satisfied.

But in light of this I would like to see you make an effort to talk to her and see that she has resolved this.

MR. WINGROVE: Understood.

CHAIR CALABRESE: That's the least you can do in light of all these problems.

MR. WINGROVE: Sure. Absolutely.

MR. SPROUSE: I think there's an understanding about some of the smaller lots in Falls Church so I don't think

there's an unreasonableness but I do think this is too much, two times in a row.

And I think to your point, wasn't that one of her main concerns, was the size of the property on the lot.

CHAIR CALABRESE: Right.

MR. SPROUSE: So that speaks directly to what's missing.

MR. MISLEH: Although I wasn't at the meeting, that was in the minutes of that previous meeting. That question from Mr. Calabrese was clearly stated or that recommendation was clearly stated in the last meeting, I believe you should talk to the neighbors. You highly recommended it.

MR. SPROUSE: So we do message them, right?

MR. BOYLE: Yes.

MR. SPROUSE: So if there's another application, let's say on next month's calendar, will it be messaged again?

MR. BOYLE: Yes.

MR. JONES: And I reiterate Mr. Bartlett's comment that you need to submit all encompassing --

MR. WINGROVE: Full package. Yes, sir.

MR. BRONSTON: Of course. We will make all the information available. We're not trying to hold back anything. We want to be clear and concise and complete.

MR. SPROUSE: So we have some of those questions answered too.

MR. WINGROVE: The interior floor plan, yes, sir.

CHAIR CALABRESE: So, Mr. Boyle, would this be a motion for a continuance or for a rejection? What's the appropriate disposition?

MR. BOYLE: I think the applicant has to consider whether they want to go ahead for a vote tonight or request a continuation.

MR. WINGROVE: We request a continuance.

MR. BOYLE: That would be to the June 14, 2018, meeting.

CHAIR CALABRESE: Okay. Do I hear a motion?

MR. JONES: I guess I'll make a motion to --

MR. SPROUSE: Do we need to motion if they're asking for a continuance?

MR. BOYLE: I think so because I think you could deny it and vote.

MR. BARTLETT: Did you make your motion?

MR. JONES: I'm thinking about my motion. Because I'm not -- do I still have a chance to speak with the Board?

CHAIR CALABRESE: Yeah. Actually we were still in the Board discussion phase.

MR. JONES: If I'm being honest, I don't oppose if the Board wants to make a motion to continue. I think my gut feeling would be based on the merits to deny it but I'm happy to defer to the Board if they feel a continuance is in order.

CHAIR CALABRESE: What's the procedural implication if we were to deny this application instead of continuing it? What would the implications for the petitioner be? Do you know what I'm talking about?

MR. BOYLE: Yes. They could ask for a reconsideration at the next meeting based on new materials. And they could appeal to Arlington Circuit within 30 days.

MR. SPROUSE: I just want to be clear: They have the right to ask for a continuance, correct?

MR. BOYLE: Yes.

MR. SPROUSE: Even if it's not a full Board.

CHAIR CALABRESE: We have a full Board tonight.

MR. BOYLE: Yes, actually with Mr. Bartlett there is a full Board.

I believe it's in your Rules of Procedure about how many continuations they can ask.

CHAIR CALABRESE: Good point.

MR. BOYLE: I don't think it's in the Code.

CHAIR CALABRESE: Okay. So just my skimming of the Rules, you're correct. If there was a rehearing -- it doesn't specifically mention continuance but if we were to reject, there would have to be a rehearing and a motion for rehearing can only be entered -- taking in reverse -- can only be reheard if new evidence is submitted that could not have been reasonably submitted at the original hearing.

MR. SPROUSE: It doesn't preclude them from reapplying.

CHAIR CALABRESE: Right. I think on how you define new material, new evidence. New evidence would be presumably a new design.

MR. JONES: Rather than a continuation, can the applicant withdraw the request and just reapply?

MR. BOYLE: Yeah. In past practice the Board's allowed a withdrawal before a vote.

CHAIR CALABRESE: That may be a good resolution of this. We're all a little frustrated with this situation. Perhaps instead of putting you in a situation where you're going to have to appeal a decision, perhaps you should just withdraw it.

MR. BOYLE: And reapply.

CHAIR CALABRESE: Reapply.

But I think to strongly emphasize to you that the next time we hear this case, it has to be perfect. The materials have to be presented complete, all the calculations done. I can't speak to what we would do but I don't think this Board would be eager to consider a fourth rehearing or a fourth consideration of it.

MR. JONES: The City provides a lot of resources. They see these cases regularly so I think if you have questions

on what's required, they'd be able to help guide you through that process.

MR. WINGROVE: Would that be through Planning?

MR. SPROUSE: Or through John, yes.

MR. BARTLETT: Building services.

CHAIR CALABRESE: So are you going to withdraw?

MR. WINGROVE: Yes.

CHAIR CALABRESE: Okay. So that concludes the Old Business.

6. APPROVAL OF MINUTES

a. Approval of the April 12, 2018, meeting minutes

CHAIR CALABRESE: And we'll then just move on to Approval of Minutes, the April 12th minutes.

(Minutes reviewed.)

MR. JONES: I'll make a motion to approve the minutes of the Board of Zoning Appeals meeting dated April 12, 2018.

I would like to note for the record, Chairman Calabrese's comments about the applicant trying to get in touch with the neighbor to the rear. I think that's an important point that has now been brought up in both of the applicant's presentations and I think it's important to note that for the record.

But notwithstanding that, I make a motion to approve the April 12, 2018, minutes of the Board of Zoning Appeals.

MR. BARTLETT: I will second that motion.

CHAIR CALABRESE: If you will call the roll.

RECORDING SECRETARY: Mr. Calabrese.

CHAIR CALABRESE: Yes.

RECORDING SECRETARY: Mr. Jones.

MR. JONES: Yes.

RECORDING SECRETARY: Mr. Sprouse.

MR. SPROUSE: Abstain.

RECORDING SECRETARY: Mr. Misleh.

MR. MISLEH: Abstain.

RECORDING SECRETARY: Mr. Bartlett.

MR. BARTLETT: Yes.

RECORDING SECRETARY: Thank you.

7. OTHER BUSINESS:

CHAIR CALABRESE: Are there any Other Business before us?

MR. SPROUSE: No. I'd just like to comment, I just appreciate Mr. Jones' comments on that. I think reading back through the minutes I wasn't at, it just strikes me that it was the exact same meeting and in fact at the last meeting, on the second or third to last page, Mr. Boyle mentioned that he had a very hard time getting a straight answer out of these

applicants. So I think attention to detail if ever applied, I think is called for beyond just the grace we normally look at for good will.

CHAIR CALABRESE: I agree.

Okay. Any final comments or a motion to adjourn?

MR. JONES: I would just like to add for the Board's concerns about this application, I think even if it was a perfect application, in this case it wasn't, I still have some other concerns of their ability to meet the variance under the Code. The application is concerning on many levels, not only attention to detail but as far as the nature of the variance itself.

I may be alone in that thought but that's what gave me pause earlier to not make a motion to continue. So I have several concerns outside of the ones this Board's already addressed.

MR. MISLEH: I think the -- I believe that the lack of the applicant's willingness to contact the neighbors leaves me concern that the quality of the product that they intend to deliver is consistent with the applications that they've submitted to date and leaves me quite concerned as well.

8. ADJOURNMENT

MR. JONES: I'll make a motion to adjourn.

CHAIR CALABRESE: Is there a second?

MR. SPROUSE: I'll second.

CHAIR CALABRESE: Call the roll.

RECORDING SECRETARY: Mr. Calabrese.

CHAIR CALABRESE: Yes.

RECORDING SECRETARY: Mr. Jones.

MR. JONES: Yes.

RECORDING SECRETARY: Mr. Sprouse.

MR. SPROUSE: Yes.

RECORDING SECRETARY: Mr. Misleh.

MR. MISLEH: Yes.

RECORDING SECRETARY: Mr. Bartlett.

MR. BARTLETT: Yes.

CHAIR CALABRESE: Okay. This meeting is adjourned.

