

AGENDA

FREDERICK COUNTY BOARD OF ZONING APPEALS

The Board Room
Frederick County Administration Building
107 N. Kent Street
Winchester, Virginia

September 17, 2019

3:30 p.m.

CALL TO ORDER

- 1) Determination of a Quorum
- 2) Minutes of June 18, 2019

PUBLIC HEARING

- 3) **Variance Request #08-19 of CMH Homes Inc.**, submitted for a 33.2-foot left side yard variance to a required 50-foot left side yard setback which will result in a 16.8-foot left side yard setback, and a 28.8-foot right side yard variance to a required 50-foot right side yard setback which will result in a 21.2-foot right side yard setback for a single-family dwelling. This property is located at 1128 Cedar Grove Road and is identified with Property Identification Number 31-A-121 in the Gainesboro Magisterial District.

Other

Adjourn

**MINUTES FOR
THE
JUNE 18, 2019
BZA MEETING**

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 18, 2019.

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

ABSENT: Eric Lowman, Chairman, Red Bud District and Kevin Scott, Vice-Chairman, Shawnee District.

STAFF

PRESENT: Mark Cheran, Zoning Administrator; David Burke, Zoning Inspector and Pamala Deeter, BZA Secretary

CALL TO ORDER

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

Active-Chairman Rinker led the Pledge of Allegiance.

Active-Chairman Rinker asked if there are any applications for July. Mr. Cheran stated no, the cut-off is Friday.

On a motion made by Mr. Cline and seconded by Mr. Madagan, the minutes for the May 21, 2019 meeting were unanimously approved as presented.

PUBLIC HEARING

Active-Chairman Rinker read the request for **Variance Request #07-19 of Southeastern Container**, submitted by Tim Stowe for a 7-foot rear yard variance to a required 25-foot rear yard setback which will result in an 18-foot rear yard setback for a rail car unloading facility. This property is located at 265 Brooke Road (Route 1320) in the Fort Collier Industrial Park, Winchester, Virginia and is identified with Property Identification Number 54-A-36I in the Stonewall Magisterial District.

Mr. Cheran came forward to present the Staff report. Mr. Cheran mentioned that the setback information was transposed. Southeastern Container is requesting an 18-foot rear yard variance to a required 25-foot rear yard setback which will result in a 7-foot rear yard setback for a rail car unloading facility. Mr. Cheran stated the reason Southeastern is requesting a variance in the rear is because of the CSX tracks. Staff presented a location map and a sketch plan of the layout of the existing facility. The rail car unloading facility has a roof and the sides are open. The new proposed facility will look similar to the old facility.

Mr. Cheran mentioned that the property is 23-acres in size and current zoning is M1. Staff stated the current setbacks for the M1 Zoning District is 75-feet for the front, 25-feet for the side yards and 25-feet for the rear. The Applicant is seeking a variance due to the limited space to build an unloading car facility because of the CSX tracks. Mr. Cheran noted that the Applicant will still meet the road requirement for the Frederick County Fire Marshall.

Mr. Cheran read The Code of Virginia 15.2-2309 (2) and the Code of Frederick 165-1001.2. The Applicant has met the criteria for a variance.

- 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.

Staff mentioned that the CSX tracks and the road width for the Frederick County Fire Department should be considered.

Mr. Tim Stowe representing Southeastern Container came forward. The Plant Manager Mr. Bill Buck and Whit Wagner the property owner, were also present. Mr. Stowe stated Southeastern Container makes plastic bottles for Coke. The demand for Coke bottles has increased. When that happens, you need to have additional raw materials available to meet the demand. In the past, when raw materials were getting low there was a concern to keep up with the demand of the product.

With the requirements of CSX, the plant was unable to expand. The Applicant started looking for other options. The only option was to request a variance of setback on the rear yard. Mr. Stowe explained the process of removing the raw materials which come in on rail cars. When removing the raw materials from the cars, there is a steel vacuum that transports the materials to the plant which are then put into silos until the product is needed.

Mr. Stowe has met with the adjoining property owner Mr. Slaughter. Mr. Stowe acknowledged there is a drainage pattern. Southeastern Container doesn't want to disrupt the pattern so that water would back up on the adjoining property. This draining issue will be addressed in the design plan.

Questions

Mr. Shirley posed a question, if the variance is granted what is the projected years this addition will keep the plant moving forward?

Mr. Stowe answered, the plant has been there 25 years and has worked with six rail cars and with an additional six rail cars hopefully anticipate another 25 years. In the design, we have made this facility to where we could add additional rail cars in the future.

Active-Chairman Rinker asked would Southeastern Container need another variance to add future rail cars.

Mr. Cheran stated yes.

Active-Chairman Rinker opened the floor to anyone in favor or opposition to come forward.

Mr. Steve Slaughter came forward, he is the adjoining property. Mr. Slaughter stated he was approached by Mr. Stowe with the design plans. We are in favor of the expansion but there is a concern about the drainage problem.

Public Hearing Closed

Discussion

Mr. Madagan inquired about the concern of the drainage issue.

Mr. Stowe yes that will be addressed.

On a motion made by Mr. Cline to approve as presented Variance Request #07-19 of Southeastern Container and seconded by Mr. Shenk, it was unanimously approved.

Mr. Cline made a motion to adjourn the meeting at 3:45 p.m.

Dudley Rinker, Active-Chairman

Pamala Deeter, Secretary

VARIANCE REQUEST #08-19
OF
CMH HOMES, INC.