



**BOARD OF ZONING APPEALS OF THE TOWN OF WARRENTON  
TOWN HALL  
21 MAIN STREET  
WARRENTON, VIRGINIA 20186**

**MINUTES**

**A REGULAR MEETING OF THE BOARD OF ZONING APPEALS WAS HELD ON  
DECEMBER 3, 2024, AT 5:00 P.M. IN WARRENTON, VIRGINIA**

**PRESENT** Mr. Larry Kovalik, Chair; Ms. Melea Maybach, Vice Chair; Mr. Geoffrey Fiutak; Ms. Susan Helander; Mr. Van Baggett; Ms. Amber Heflin, Zoning Official

**ABSENT** Ms. Heather Jenkins, Zoning Administrator

**CALL TO ORDER AND DETERMINATION OF A QUORUM**

The meeting was called to order at 5:00pm. There was a quorum of members present.

**APPROVAL OF AGENDA**

Mr. Kovalik asked for a motion.

Mr. Fiutak motioned to approve the agenda. Ms. Maybach seconded. All in favor. The vote was as follows:

***Ayes: Mr. Larry Kovalik, Chair; Ms. Melea Maybach, Vice Chair;  
Mr. Geoffrey Fiutak; Ms. Susan Helander; Mr. Van Baggett***

***Nays:  
Absent During Vote:***

**APPROVAL OF MINUTES**

**Draft Minutes – October 1, 2024, Meeting**

Ms. Maybach motioned to approve the minutes as presented, and Mr. Fiutak seconded. All in favor. The vote was as follows:

**Ayes:** *Mr. Larry Kovalik, Chair; Ms. Melea Maybach, Vice Chair; Mr. Geoffrey Fiutak; Ms. Susan Helander; Mr. Van Baggett*

**Nays:**  
**Absent During Vote:**

**PUBLIC HEARING**

**BZA-24-4: 57 Madison Street**

Mr. Kovalik requested an overview from staff.

Ms. Heflin gave a brief presentation on the proposed variance request, advising the request was for a 2' variance from the 10' minimum required side-yard setback to allow the construction of a 2,926 square foot home.

Ms. Heflin advised the applicant's representative, Mr. Lee Baines, was present for questions from the Board.

Mr. Fiutak asked if the zoning ordinance re-write will include modifications to the existing setbacks in the R-10 District.

Ms. Heflin responded she did not believe so.

Mr. Kovalik asked if the definition of capricious used in recent case law is applied to the applicant only or if it can be applied to how the variance affects the community as a whole.

Ms. Heflin advised the case law could be applied to the variance request itself.

Mr. Baggett asked for additional requirements for cluster development.

Ms. Heflin advised cluster developments are typically subdivisions of larger parcels into smaller lot sizes, with smaller setbacks, and with open space to be used by the residents for their enjoyment and potential stormwater lots.

Mr. Kovalik asked for clarification of the proposed approval condition regarding the rear porch not being allowed to be covered if it was within the rear setback.

Ms. Heflin advised the portion of the deck that extends within the 10' side yard setback by 2' would not be able to be covered or enclosed, but the remainder of the deck would be allowed to be enclosed if desired in the future.

Mr. Kovalik asked if the living area calculation of comparable homes on the street provided by staff included the basement.

Ms. Heflin advised the calculation of square footage was utilizing the Fauquier County Real Estate

Records, and included all livable space, which included finished basements only.

Mr. Kovalik pondered on the height of the proposed home in comparison to neighboring properties, noting he did not see an indication of the height on the elevation drawings provided by the applicant.

Ms. Heflin advised she did not see the measurement noted on the plan set provided, but the applicant may be able to weigh in.

There were no further questions for staff.

Mr. Kovalik asked the applicant to approach the dais.

Lee Baines, the applicant's representative, reiterated the reasoning for the variance and the reasoning for the home being larger than adjacent properties. He added the difference in size is due to the design of the home, a first-floor master suite, which is popular currently with home buyers.

Mr. Baines apologized for the height not being included on the architectural plans, but added the home appears to be roughly 30' in height.

Mr. Kovalik stated his concern was the board sees sets of drawings that state they are preliminary and wanted to make sure that the design the board is seeing is what is being proposed.

He added the roof appears to be quite steep.

Mr. Baines noted the house being proposed is of the same general design as the homes constructed on Green Street by Mr. Atkins.

There were no further questions for the applicant's representative.

Mr. Kovalik opened the public hearing at 5:17pm.

No one spoke.

Mr. Kovalik closed the public hearing at 5:17pm.

Mr. Kovalik asked for a motion.

Mr. Fiutak moved to table variance application BZA-24-4 until the Board's next meeting on January 7, 2025, and requested the applicant provide a shadow diagram, and a rendering/elevation of the proposed home situated on the lot to show its appearance and massing in comparison to adjacent homes.

Ms. Helander seconded.

Mr. Kovalik asked for discussion, and asked Mr. Fiutak if additional information was needed from the applicant.

Mr. Fiutak asked the applicant for a shading diagram of the proposed home to ensure that adjacent properties are not substantially affected by the proposal.

Mr. Fiutak advised the main purpose of setbacks in Zoning is to maintain access to light and air, and a tall home would cast a shadow on the adjacent homes and possibly more so when moved closer within the required setback.

He added the applicant could provide a shading diagram or a solar plot diagram showing the affect the home would have on adjacent property for the life of the structure.

Ms. Helander requested a rendering of the home on the lot to show what the proposal would look like next to adjacent homes on either side.

She added she spoke with some of the Townhouse owners on the corner of Madison Street, and they did not have concerns with the proposal.

Mr. Baggett asked if the neighboring homes encroached on the required setback, noting the homes are older.

He added his concern is for fire-safety separation, noting the older homes are already encroaching and allowing a new home to encroach might place homes at risk.

Mr. Fiutak added he agreed with Mr. Baggett and asked that the Building Official review the proposal for fire-safety separation and building code requirements now, as well as when the building permits come in for review.

Ms. Heflin advised she would send this information to the Building Official and Fire Marshal for review and opinion.

Mr. Kovalik advised he spoke to the neighbor that lives behind the property in question and the neighbor really did not have comments on the proposal.

Mr. Kovalik stated he also spoke with one of the next-door neighbors, whose house appears to encroach into the setback. He added there was a language barrier, but the owner does have chickens in the backyard.

Mr. Kovalik said he spoke with the neighbor on the other side of the lot, to an elderly woman whose family expressed deep concerns about the size of the home.

Mr. Kovalik stated a neighbor across the street from the proposed home does not feel the home will fit in the existing Madison Town community, and the homes constructed on Washington and Green Street was an injustice to the Town.

Mr. Kovalik stated that the homes constructed on Washington and Green Street were huge homes on very small lots and are almost overwhelming to the community.

Mr. Kovalik added he noticed applicants are trying to bring much needed housing within infill areas but feels that applicants are using the variance process to build as big homes as possible to

shoehorn large homes on lots.

He stated again that he feels this process is an injustice to the community surrounding the subject property.

Mr. Kovalik restated his opinion on utilizing the variance process as a matter of convenience, and that he did not feel a deferral of the application was necessary.

There was no further discussion on the motion.

The vote was as follows:

**Ayes:** *Ms. Melea Maybach, Vice Chair; Mr. Geoffrey Fiutak Ms. Susan Helander;*  
**Nays:** *Mr. Larry Kovalik, Chair; Mr. Van Baggett*  
**Absent During Vote:**

Ms. Heflin clarified the request with the board to defer the application until the January meeting, and the items requested from the applicant.

## **UPDATES FROM STAFF**

### **January Board Meeting Discussion**

Ms. Heflin advised the next regular meeting date for the Board is to be January 7, 2025. She stated this is mostly an organizational meeting with the election of officers, and the presentation of the annual report for the BZA. However, due to the deferral earlier in the evening, there would also be a public hearing.

Ms. Heflin asked if all Board members would be able to be present at this meeting.

All members of the Board indicated they were available to attend the January meeting.

### **Vacancy on the BZA**

Ms. Heflin advised the Board will have a vacancy as of December 31<sup>st</sup>, due to Mr. Kovalik's resignation from his position in order to begin serving on the Town Council in January. She added staff are currently advertising for the vacancy and staff hope to have an appointment in January or February, but advised the timeline is up to the Court system.

### **Changes to the Staff Report and Requesting additional documents during the application process**

Mr. Fiutak asked staff to include a statement that adjacent property owners were notified of the application, and whether comments were received as part of the staff report with all future applications.

Ms. Heflin agreed, but advised the statement would only reflect comments received or not as of

the date of the staff report.

Mr. Fiutak acknowledged this was acceptable.

Mr. Fiutak asked if staff could collect a shading diagram as part of the application process for applicants requesting a variance of setbacks in all cases in the future.

Ms. Heflin advised staff cannot require the submission of the diagram but could certainly advise the applicant that the diagram may be something the board would like to see at the meeting, should they wish to provide it in advance.

Mr. Fiutak acknowledged this was acceptable.

There were no further questions or updates from staff or the Board.

**ADJOURNMENT**

Ms. Maybach motioned to adjourn. Mr. Fiutak seconded, all in favor. No discussion. The vote was as follows:

***Ayes: Mr. Larry Kovalik, Chair; Ms. Melea Maybach, Vice Chair;  
Mr. Geoffrey Fiutak; Ms. Susan Helander; Mr. Van Baggett***

***Nays:  
Absent During Vote:***

The meeting was adjourned at 5:31 pm.

**I hereby certify that this is a true and exact record of actions taken by the Board of Zoning Appeals of the Town of Warrenton on December 3, 2024.**

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Melea Maybach  
BZA Vice Chair