



AGENDA

REGULAR MEETING
BOARD OF ZONING APPEALS
VIENNA, VIRGINIA

SEPTEMBER 17, 2014
8:00 PM
COUNCIL CHAMBERS-TOWN HALL

ROLL CALL:

PUBLIC HEARING:

ITEM NO. 1: Request for approval of **variances** from Section 18-24, Area Requirements, of the Vienna Town Code to permit the resubdivision of the subject parcel into two lots and to construct single-family dwellings thereon within the proposed modified setbacks at 440 Malcolm Road NW, and in the RS-12.5, Single-Family Detached Residential zone. Application filed by Yvon G. R. Jensen, owner.

REGULAR MEETING:

DECISIONS: THE BOARD WILL REACH A DECISION ON THE ABOVE-LISTED AGENDA ITEM AT THE CONCLUSION OF THE SCHEDULED PUBLIC HEARING.

APPROVAL OF MINUTES:

ADJOURNMENT:

THE TOWN OF VIENNA IS COMMITTED TO FULL COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT STANDARDS. TRANSLATION SERVICES, ASSISTANCE OR ACCOMMODATION REQUESTS FROM PERSONS WITH DISABILITIES ARE TO BE REQUESTED NOT LESS THAN 3 WORKING DAYS BEFORE THE DAY OF THE EVENT. PLEASE CALL (703) 255-6341, OR 711 VIRGINIA RELAY SERVICE FOR THE HEARING IMPAIRED.

**ABOUT THE VIENNA BOARD OF ZONING APPEALS, AND
PROCEDURES THAT WILL BE USED DURING THIS MEETING:**

THE BOARD OF ZONING APPEALS IS A QUASI-JUDICIAL BOARD COMPRISED OF SEVEN (7) MEMBERS-- ALL OF WHOM ARE RESIDENTS OF THE TOWN OF VIENNA, VA. THE BOARD SERVES AS AN ARM OF THE FAIRFAX COUNTY, VA, CIRCUIT COURT, AS ALL MEMBERS ARE APPOINTED TO THE BOARD BY THE COURT AFTER THE RECEIPT OF A RECOMMENDATION FROM THE VIENNA MAYOR AND MEMBERS OF THE TOWN COUNCIL.

THE BOARD IS EMPOWERED BY SECTION 15.2-2309 OF THE CODE OF VIRGINIA TO:

- HEAR AND DECIDE APPEALS FROM ANY ORDER, REQUIREMENT, DECISION OR DETERMINATION OF THE ZONING ADMINISTRATOR;
- GRANT VARIANCES FROM THE ZONING ORDINANCE – AS DEFINED IN § 15-2.2201 OF THE CODE OF VIRGINIA – AS WILL NOT BE CONTRARY TO THE PUBLIC INTEREST, WHEN, OWING TO SPECIAL CONDITIONS, A LITERAL ENFORCEMENT OF THE PROVISIONS WILL RESULT IN UNNECESSARY HARDSHIP, THE HARDSHIP IS NOT SHARED GENERALLY BY OTHER PROPERTIES WITHIN THE SAME ZONE OR DISTRICT, AND ITS AUTHORIZATION WILL NOT BE OF SUBSTANTIAL DETRIMENT TO ADJACENT PROPERTY OR CHANGE TO CHARACTER OF THE NEIGHBORHOOD;
- HEAR AND DECIDE APPLICATIONS FOR INTERPRETATION OF THE ZONING DISTRICT MAP WHEN THERE IS ANY UNCERTAINTY AS TO THE LOCATION OF A BOUNDARY LINE.
- GRANT CONDITIONAL USE PERMITS IN ACCORDANCE WITH THE PROVISIONS OF §§ 18-209 THROUGH 216 OF THE VIENNA TOWN CODE.

THE BOARD OF ZONING APPEALS DOES NOT HAVE THE POWER TO CHANGE THE ZONING ORDINANCE OR TO REZONE PROPERTY. THOSE POWERS REST WITH THE MAYOR AND TOWN COUNCIL. PLEASE BE ADVISED, AS WELL, THAT THE BOARD DECIDES EACH APPLICATION ON ITS OWN MERITS – THERE ARE NO PRECEDENTS.

THE BOARD WILL FIRST CONSIDER EACH APPLICATION DURING THE PUBLIC HEARING PORTION OF THE MEETING. AS A PART OF THE VIRGINIA COURT SYSTEM, THE BOARD OF ZONING APPEALS DOES TAKE SWORN TESTIMONY, AND EACH PARTICIPANT WILL BE SWORN IN PRIOR TO OFFERING COMMENTS ON ANY ITEM UNDER CONSIDERATION THIS EVENING THROUGH THE USE OF THIS OATH: *“DO YOU SWEAR TO TELL THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH UNDER PENALTY OF PERJURY?”*

THE SECOND PART OF THE MEETING – THE REGULAR MEETING OR BUSINESS SECTION – WILL CONVENE AFTER A SHORT BREAK AFTER THE LAST PUBLIC HEARING HAS BEEN CLOSED. THE BOARD WILL REACH A DECISION ON EACH ITEM BEFORE IT THIS EVENING. THE GRANT OF ANY APPEAL FROM A DECISION BY THE TOWN’S ZONING ADMINISTRATOR REQUIRES AN AFFIRMATIVE VOTE OF THE MAJORITY OF THE ENTIRE MEMBERSHIP OF THE BOARD OF ZONING APPEALS. THE GRANT OF ANY CONDITIONAL USE PERMIT OR VARIANCE REQUIRES AN AFFIRMATIVE VOTE OF THE MAJORITY OF THOSE PRESENT AND VOTING. IF YOU ARE UNABLE TO STAY FOR THE LAST PART OF THE MEETING, YOU MAY LEARN OF THE BOARD’S DECISION BY CALLING THE STAFF OF THE PLANNING & ZONING DEPARTMENT IN THE MORNING.

IF ANY PARTY IS NOT SATISFIED WITH THE DECISION OF THE BOARD, AN APPEAL MAY BE FILED WITH THE CIRCUIT COURT OF FAIRFAX COUNTY WITHIN THIRTY (30) DAYS AFTER THE ISSUANCE OF THE BOARD’S DECISION (ORDER) ON THE MATTER.