

STAFFORD COUNTY BOARD OF ZONING APPEALS
May 23, 2023

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) Tuesday, May 23, 2023, was called to order with the determination of a quorum at 7:00 PM by Chairman Kecia Evans in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Kecia Evans, Dana Brown, Jon Ireland, Steven Apicella, Abraham Panjshiri,

MEMBERS ABSENT: John Harris, Jeffrey Spinnanger, Robert Gibbons

STAFF PRESENT: Douglas Morgan, James Staranowicz, Stacie Stinnette

DECLARATIONS OF DISQUALIFICATION

Ms. Evans: Let the record reflect that we have a quorum tonight with five voting members present. Determinations, sorry, declarations of disqualification - is there anyone here that would like to make a declaration of disqualification? Alright. Do you have one?

Ms. Brown: No, I don't have a declaration of disqualification. I do have a declaration if you're interested in that. Just wanted to state I did visit the property. The first time was last Friday, I believe that was the 19th. I took a drive by and then I went again this evening about six o'clock just to go back and check a few things out. I spoke to no one.

APPLICATIONS AND APPEALS

1. V23-01/23154994; Minix Variance – Requests a Variance of Stafford County Code, Sec. 28-39(a), “Special regulations – Fences, walls, and hedges,” to allow for the fence height in the front yard to be six (6) feet on Tax Map Parcel No. 46-39. The property is zoned R-1, Suburban Residential, located at 929 Forbes Street, approximately 17.6 feet south of Manning Drive, in the Falmouth Election District.

Ms. Evans: Alright, thank you. The BZA is a quasi-judicial body whose members are volunteers appointed by the Circuit Court of Stafford County. And I'm sorry, we're doing the application now. The purpose of the BZA is to hear and decide appeals for any order requirement, decision or determination made by the zoning administrator. Hearing of appeals will be conducted in two parts. The first will be a review of jurisdiction and standing, the second will be the hearing of the merits of the case, if required after review of jurisdiction and standing. We will hear and decide upon requests for variances from the zoning ordinance when a literal enforcement of the ordinance would result in unnecessary hardship to the owners of a property and we will hear and decide or request for special exceptions, or the zoning ordinance allows the special exceptions. The hearings will be conducted in the following order. I will ask the BZA secretary to read the case. I will then ask the applicant or their representative to come forward and state their name and address and present the case to the Board. You will be allowed 10 minutes to present your case. I will then ask for any member of the public who wishes to speak in support of the application to come forward and speak. You will only have three minutes. After hearing from those in favor of the application I will ask for any member of the public who wishes to speak in opposition to the application to come forward and speak. You will have three minutes. After all public comments have been received the applicant shall have three minutes to respond and provide closing remarks. Members of the Board may ask questions of the applicant to clarify or better understand the case. We ask that each speaker present their views directly to the Board and not to the applicant or other members of the public. We require the applicant, speaker, presenters and audience to act with the level

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of decorum and respect appropriate as a courtroom setting. This Board requires that any person who wishes to speak before this Board shall be administered an oath. Therefore, I ask anyone who wishes to speak tonight to stand and raise your right hand. Do you hereby swear or affirm that all testimony before this Board shall be nothing but the truth? Thank you, you can be seated. After the applicant's final response, I will close the public hearing. After the public hearing has been closed. There shall be no further public comments. As a reminder I ask when you come down to the podium to speak please first give your name and address and clearly speak into the microphone so our recording secretary can have an accurate record of the speakers. Also, please sign the form on the table at the rear of the room if you have not. Are there any changes or additions to the advertised agenda?

Mr. Staranowicz: No, there's not.

Ms. Evans: I now asked staff if the application has been deemed complete.

Mr. Staranowicz: The application has been deemed complete.

Ms. Brown: I'm thinking the application might be incomplete, but nothing that we might not be able to overcome tonight. When I looked through it, it looks like there's two owners of the property and the top page of the application stated there was a David and Ann Minix. But later on in the application, I actually had a marked, he's not listed as an interested owner. He didn't sign and it's not notarized.

Mr. Staranowicz: That is that hasn't been rectified.

Ms. Evans: Great. Thank you. I'm going to ask this BZA member Abraham Panjshiri have any additional questions for the staff?

Mr. Panjshiri: No, Madam Chair.

Ms. Evans: Does BZA member Steven Apicella have any additional questions for the staff?
Does BZA Secretary John Ireland have any additional questions for the staff?

Mr. Ireland: No Ma'am.

Ms. Evans: And does BZA Vice-Chair Dana Brown have any additional questions for the staff?

Ms. Brown: Yes. I'm looking at the pre-application conference checklist and in the box under other it says the VDOT letter was declined. Who declined? Did VDOT decline to give a letter or did the applicant declined to get a letter? I didn't understand that.

Ms. Evans: Where you looking at again?

Ms. Brown: Attachment three, page three of 12. It's the pre-application conference checklist.

Mr. Morgan: Yes, ma'am. The Virginia Department of Transportation did verify and did not provide anything in writing. But they did communicate with us verbally about the trees being removed, about the right away area. They did remove the trees in front of this property which essentially caused the hardship.

Ms. Brown: Okay, because there was trees there tonight when I went by. When did they remove them?

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Mr. Morgan: No. I mean, there was trees, like there were trees. It was so overgrown, complete vegetation and that has been removed. Yes, there are some trees there. But your question was...

Ms. Brown: Yeah, VDOT declined to put that in writing?

Mr. Morgan: Yes. They gave it to us verbally.

Ms. Brown: Great. And then I had another question on the second page of the staff report. Under discussion analysis, there's the, looks like the four points for the conditions of a variance. And I just wonder who put the answers to that in there? Was that the applicant? Or was that staff? The only reason I'm asking is I looked back at a couple other variances we have an either that wasn't filled in it was just the criteria was listed. Or in another case, we had all the answers started with the applicant stated. So, I just I didn't know if this was the applicant stated these answers, or if staff was trying to tell us the answers.

Ms. Evans: Which page are you?

Ms. Brown: Looks like, there's no number on it. It's the back page, or the second page of the staff report. There's no number, I'm so sorry. This page on the back mine, so mine might be double sided, yours might not be.

Mr. Morgan: And the answers to those questions. You're asking who answered the questions?

Ms. Brown: Yeah.

Mr. Morgan: Because is there a discrepancy with the question?

Ms. Brown: Well, I wanted to know if staff made the determination on all these things, or if the applicant did because in the previous packets we had on variances when the answers were put in to substantiate the claim, I guess, it all started with "the applicant stated." I brought them with me. So, I just didn't, you understand what I'm saying? Is staff trying to convince us of this or is the applicant?

Mr. Morgan: No, staff will answer the questions and answer questions that are needed to be answered by the Board for any application, but it is up to the applicants to fill out and complete their justification.

Ms. Brown: So, like on number four it does, that's the only one that starts with "the applicant states" that the adjacent nearby properties won't be affected. So, all the ones above it, is it the applicant stating as well? That's that was my question. I'm so sorry. I'm not being very succinct.

Ms. Evans: So, are you saying what you're saying is one through three, it looks as if the applicant wrote the or it would appear that the applicant addressed the questions versus maybe number four, the applicant may have had an assistance with it?

Ms. Brown: No, no. It looks like, I don't know, did staff write these responses, except for number four? Because number four, obviously says the applicant states, normally on all our variances...

Mr. Morgan: So, let's look at the questions because these questions are directed for staff and need to be answered collectively. So, the answer, like just number two, such hardship generally can't be shared by

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everybody across the board, or by the properties. So, we have to answer those questions for you. They don't know that. How would the applicant know what is shared?

Ms. Brown: All our other ones, it says "the applicant states."

Mr. Morgan: And all the other ones you have are special exceptions.

Ms. Brown: They are variances and I brought them with me.

Mr. Morgan: And how old are they?

Ms. Brown: One's 2016, one's 2015.

Mr. Morgan: So, we've changed our applications probably three times. So maybe, maybe, and we've done our pre-application process. But these are questions that need to be answered for the Board, either by the applicant or by staff. And they are questions that need to be answered so that you can make a good standing.

Ms. Brown: So, you've determined that the character of the district will not change. That's not for us to determine, you determine that correct? And you've determined there's no other houses? And number four, you just decided not to answer and the applicant answered that one?

Mr. Morgan: So, in the applicants packet as well there's affidavits and signatures from adjacent property owners pretty much stating that the condition is intended for that property, and not making any unreasonable change to surrounding properties. And the applicant states that the adjacent nearby properties are not affected. And so, he did state that and he also stated that in his application as well.

Ms. Brown: Yeah, I saw that in his, that's why I wasn't sure if he was also doing these or not. And the other ones that we had they were the same questions, same format. Just one time, they just weren't answered at all and then the other time it was the applicant, the applicant, the applicant. So, I just wanted to see who was trying to convince us of all of this.

Mr. Morgan: There's no convincing. There's questions and there's answers.

Ms. Evans: So, I would say does it change the application if it's the verbiage is different?

Mr. Morgan: No

Ms. Brown: Well...

Ms. Evans: That's a perception.

Ms. Brown: The character of the district will not change by granting the variance. I mean, that would be subjective, I would think, to each one of us.

Ms. Evans: Right. But I guess what I'm trying to ask is like, would it alter the decision that we could have because it came from the staff?

Ms. Brown: Yeah, if it came from them and it wasn't true. Yes.

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Ms. Evans: But then we don't know that that like, right, like, I guess I'm just confused a little bit.

Mr. Morgan: Let's go down them and let's answer them. Okay, so the first one is, if you guys want to read whichever one you want to go down, or do you want to go down the all?

Ms. Evans: Is it necessary?

Ms. Brown: I just want to know if it was staff or the applicant, because it has different things on here. So, you're saying staff did number one through three, and the applicant did number four.

Mr. Morgan: So, James answered these questions and type these up. And so obviously, when he does the pre-application with the applicant, he does gain information. And when an applicant provides an affidavit with surrounding property owners and emails and phone calls that we received in favor, we say that in here as well as the applicant.

Ms. Evans: Okay, so I get what you're saying. So basically, they took the verbiage from what the applicant was saying, and this is why they put the applicant states verses one through three, it was decided by staff. And this is why they don't have the applicant, but with that, this is what I'm asking, with that, does that matter? Like I don't know.

Ms. Brown: It does, but I'll get into it later. I'll get into later when we have discussion. Thank you.

Ms. Evans: I'll now ask the secretary to read the first case. Oh, I'm sorry, do you have anything else Dana?

Ms. Brown: No.

Ms. Evans: I'll now ask the secretary to read the first case.

Mr. Ireland: The Board of Zoning Appeals is to consider a request to allow for a six-foot-high fence within the front yard on tax map parcel 46-39 The property is zoned R-1, suburban residential and is located at 929 Forbes Street within the Falmouth election district. The applicant is requesting a variance of the four-foot height requirement for a fence located within the front yard. This property is on Forbes Street approximately 17.6 feet south of the intersection with Manning Drive. The applicant is requesting to be allowed variance to have a six-foot fence within the front yard.

Ms. Evans: Thank you. I now open the public hearing. Will the applicant or his or her representative please come forward to present their case.

Ms. Minix: Can you hear me? Okay. My son, would you mind if he comes stand with me because she was a big part of all the measurement and everything that was put into this fence decision. My name is Anne Minix. Currently 929 Forbes Street, Fredericksburg 22405 as of November of last year. So, we elected to put a six-foot fence up because of the position of our property on Forbes Street. We are very close to the street. There are no shoulders, no sidewalks and it is a very high-volume road. We put up the fence for safety of our granddaughter who lives with us and any other children or cousins we may have a new yard and our own safety and privacy. Another issue to that is the Falmouth Elementary School directly across the street. When we moved in, we said "Oh how nice. We can walk her across the street." Well, once we got to getting her into the school, we found it was a no-walk zone, which meant

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we couldn't even walk her across the street to school. We had to get in our car drive five minutes and back again. And that was determined in 1968 when the school was built, and it's now what 31 years later and it's still a no-walk zone with much more traffic. So however, they did those numbers, then it's even more so now. So that establishes the high-volume traffic. And our safety. Just last, about two weeks ago, which you have some recent photographs of, there was a, it was a rainy night and there was a speeder coming around the corner, skid into our easement and my husband was inside said "he's real close" or something like that. So, then we went out and took some pictures. So that's the, it's a curve coming, in fact both ways, it's a curve. All beyond our control, of course. The building, the home was built about 1900. Horse and buggies rode on Forbes Street so there wasn't a high traffic volume then to consider. The safety, let's see, the volume of traffic on a winter night. We moved in November, right after Thanksgiving. And our living room faces Forbes Street and the angle of southbound traffic coming down Forbes, past Manning and at that curve, the headlights go right into our front living room, okay and that lasts for about an hour and a half in the wintertime. Okay. And of course, morning traffic is coming the other way. So, it's just traffic. Then the privacy, of course that goes with our privacy. Of course, proximity of the property. You don't have any, well none of us have any control of this, but the sex offenders' registry. We checked that out and there are 123 registered in a three-mile radius of our property. They're the registered ones. But that's beyond everyone's control. And let's see. So, a four-foot fence gave us nothing, would give us nothing on safety, on privacy, and any enjoyment of the property. I believe that establishes our main purpose for designing this six-foot Fence. Kevin, do you have anything to add?

Mr. K. Minix: No, I just wanted to...

Ms. Minix: He has more of the numbers. He has the numbers. He did all the measurements. Thank you very much.

Ms. Evans: Is there any member of the public who wishes to speak in support of the application? Please come forward. Come on up, sir. State your name and your address.

Mr. D. Minix: Okay, David Terrell Minix, 929 Forbes Street and I was excluded from the first meeting, it seems. We had one person complain about the fence. One person. We've had thousands of people drive up and down Forbes Street and we've had nothing but good report from people driving from people that... we have actually no neighbors. If you look at the photographs, while we call neighbors, they live on the next street. The one house to the north of us is on Manning. If you look at the corners, there's no growth there. That's because I took it all down. You know, with the bad back and the bad knees and a bad shoulder and everything else. And a bad ticker, the lot needs work. And we've cleaned up that neighborhood. We have we have improved that property, which improves the whole neighborhood, the school everything, and we've gotten good reports on that fence. Okay, thank you.

Ms. Evans: Is there any member of the public who wishes to speak in opposition to the application please come forward? Seeing none, is there anything else that applicant wishes to respond or add additional information to the application? At this time, I will open up for questions for the Board members. And so, this is the time for Board members to ask any and all questions of the applicant before I close the public hearing. As a reminder, once the public hearing is closed, we cannot take any further questions from the floor. Each Board member will be a will have no more than three minutes to ask your questions. I would say, I'm sorry, five minutes. Does BZA Board Member Abraham Panjshiri have any questions for the applicant?

Mr. Panjshiri: No Madam Chair.

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Ms. Evans: Does BZA member Steven Apicella have any additional questions for the applicant? Does BZA member John Ireland, Secretary John Ireland have any additional questions?

Mr. Ireland: I do. Do you want to come back up? So, the packet and you, I think you stated when you first got up there, you guys moved in November of last year, I believe. So, I saw pictures, I think of the property before it was changed. And I think there's a lot of shrubs and trees, you can barely see the house from one of the angles. So, the purpose that you're stating of why you need a six-foot fence, if those shrubs had been there, some of those reasons would have been not applicable, I think, right? Because I think heavy shrubs would cut back on the noise. I think in the packet, you mentioned headlight, I'll call it light pollution from headlights. You know, I don't know if the shrubs would have blocked that, I assume they would have. The safety factor, you know, that's whether you have shrubs or fence it's gonna, you know, I don't know that one or the other. So, I guess my question is, did you remove the shrubs right away when you moved in and then put the fence up or had you had time to see what it was like with the shrubs and say, Yeah, it's really bad. We need to pull the shrubs and put a fence up.

Ms. Minix: I believe so. Kevin?

Mr. K. Minix: Kevin Minix, their son, I live there with my daughter. I pulled those images off of Google Maps. They are from, I can't remember the dates off the top of my head, I think the most recent were about 2019, then like 2016, or something. They're from years before. Those are what VDOT removed, VDOT remove them, or I'm assuming. I'm sorry, that's an assumption. Okay. So, the photos that I posted that I shared in the email, were identified which ones we took, and which ones I pulled off of Google Maps to show the progression of the property through the years.

Mr. Ireland: To be specific when you folks moved in, in November of 22, when you signed and accepted the keys, were those shrubs there?

Mr. K. Minix: I'm assuming you're talking about that wall of shrubs. And it's like six feet, eight feet high? No, those were not.

Mr. Ireland: Okay. And you didn't remove them?

Mr. K. Minix: No, sir.

Mr. Ireland: Okay

Mr. K. Minix: No, those were, those were gone, the trees were there. The same trees are there.

Mr. D. Minix: I'm not sure what shrubs you're talking about.

Ms. Evans: Sir, if you come up to the podium.

Mr. D. Minix: There's a stop sign there that you could hardly see. I went in and took down the...they were taller than me. I'm 5'7". And the reason I took them all down was safety because when you pulled up and you're on Manning and you pulled forward, you darn near had to pull on Forbes to look south and see what was coming. And that's the reason I took down all that trash and everything. And I actually went on the other guy's property and did it. And I poisoned it and I'll probably continue to do it, because they don't take care of it so and I don't want to see your wreck, you know, you don't want anybody to get

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hurt. So, I cut that down, and I also cut down on the south side, just passed, what's the name of that street, just past our drive, just past our driveway, it's the same thing. The growth has come out so far. You can't see south so I've taken all that down. Just for safety of the public and ourselves, of course, you know, we just don't want any wrecks.

Mr. K. Minix: And he's referring to the bushes around the stop sign. Yeah, the photos that I took from Manning, heading south. There's the pictures where there's the shrubs around the stop sign. That's what he's speaking about, that corner that he cleaned out. What I came up in initially talking about was the pictures of the big shrubs all the way down the property. Just to clarify. Okay, two different things.

Mr. Ireland: Yeah. Okay. I've got one more question and as a county resident myself, I've had, I've done construction with fences and not construction. I've had people construct things, but they've always pulled licenses and whatever they have to pull from the county to get permission for a deck or fence. I think I read in the application that you folks either didn't know that you needed to do that, or was there an effort made to get the fence approved before you actually put it up?

Ms. Minix: Yes, yes. And there was no permit required or anything like that.

Mr. Ireland: Okay, so you applied to the county and said, hey, we're going to put up a six-foot fence in the front yard, it's going to be these dimensions, this height, this close to the road, and they said don't need to even talk to us?

Ms. Minix: We said we might be considering a fence. They said to us, because of the zoning, it would have to be four feet. We said we need more than four feet. We had already discussed this. And one gentleman there said, well, if you go six feet, you have to take it down. And we said why? He said well, if you do and if you get one complaint then it has to come down. And that's what brought Mr. Staranowicz out.

Mr. Ireland: Was that a person from the county or was that just a neighbor who...

Ms. Minix: No, no, it was in the county office. Okay. In the county office, the girl the front called somebody in and clarifies us.

Mr. Ireland: And no one told you at that time, you should get a variance if that's still what you wanted to pursue. Okay. We'll just want to make sure.

Ms. Minix: They just said, we thought well, and then we looked around the neighborhood and said who's going to complain? There was nothing. That's where we went okay.

Mr. Ireland: Okay. Very good. Thank you. That's all I have.

Ms. Evans: BZA Vice-Chair Dana Brown, do you have any questions for the applicant?

Ms. Brown: Mrs. Minix. Thank you very much for your patience. I just had three quick questions and I don't know if you know the answer to this. Do you know if the fence is in the VDOT right-of-way?

Mr. K. Minix: So, the 25 feet from the middle of the roadway is that easement, is that what you mean?

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Ms. Brown: Well, I know that it, yeah, there's a centerline and I don't know what the actual easement is on that road. It depends on how big the road is right

Mr. K. Minix: At that spot it's 25 feet, okay, where we are on our plat. And I spoke with a VDOT employee, about 75% of that fence is on our side of that easement line. That easement line is about where the trees are in our front yard. And the fence is on the inside of that. Now, when you get to the south end of the fence, like towards the driveway, there, it's on the line to at the very extreme south end, about 18 inches over.

Ms. Brown: Okay, so some of it could be in the right-of way. That's just what I wanted. That was one of my questions. My other question is, since you've been able to move in November did you install any blinds on your front windows? I know a lot of people will put them up for privacy and to keep the sun out and stuff that you put up blinds?

Ms. Minix: Blinds were in the home.

Ms. Brown: Okay, great. And then last question, since you've been in there since November of 22, has the road been widened at all since you've been there and moved any closer to the house from when you first purchased it?

Ms. Minix: No.

Ms. Brown: Okay.

Mr. K. Minix: To that affect, the VDOT gentleman I spoke with. He wouldn't put it in writing but he said us, we could go inside of that easement but it was sort of like us rolling the dice. Right? He said, look, if we want to expand this road in the future, it's going to be on you. And that's why we moved the fence back behind the trees. So, if in the future, they do want to do work on that road, there is room to do that. But this was a, he was a VDOT employee, but it was a citizen to citizen talk. You know, he wouldn't make it official.

Ms. Brown: Okay, so but you're saying that all the trees are in back of the fence or in front of the fence?

Mr. K. Minix: The outside of the fence. Depends which way you're looking at it.

Ms. Brown: Okay. Okay.

Ms. Brown: That was all I had. Thank you. I appreciate your patience.

Ms. Evans: Wait. Don't sit down yet. I just have one question. Sorry. So, I can say Falmouth is my district. So, I want to say thank you because I actually live like one minute away. So I know exactly what in this area is. I used to go to, I still do go to the corner store. So, when I arrived there, I definitely know like the stop sign. You could not, you actually had to go out a little bit. And the passing cars, so I understand what you're saying. The question that I have for you is the house that is behind you, it seems like it's on your property. Is that part of the house? Is that part of your property? Or no? Because there's a whole bunch of trees there, which seems like looking from here, your fence kind of like goes up to that, you know, past the stop sign. You know what I'm talking about?

Ms. Minix: Almost a triangle.

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Ms. Evans: Exactly

Ms. Minix: That is a rental property and they face Manning. So, they're, in fact, we've talked to the property owner and got permission to even consider with the property line, everything like that and he said fine, go ahead. So, but was your question about that house?

Ms. Evans: So, no, I wanted to know if it was part of your property because the way it looks like when you're coming to the stop sign, it looks as if that is part of your property, but the trees are covering so much so I just wanted to ask. It looks like a little hut.

Ms. Minix: We share that point at Manning and Forbes.

Ms. Evans: And you didn't remove any trees from there?

Mr. K. Minix: No just clearing around the stop sign.

Ms. Evans: So just the stop sign?

Ms. Minix: Just so you can see and we got his permission. We got his permission. We said we're going to take some trees, bushes, they're really bushes to put the fence in and they were fine.

Ms. Evans: Okay. That's all the questions that I have and so I will now close the public hearing for the application and bring the matter to the Board for discussion. Everyone reviewing the application, let's start discussing. So, I will start with you first. Dana, BZA Vice-Chair. Do you have anything?

Ms. Brown: Okay, sure. I wasn't prepared to go first. But sure, I'll do that. I have great sympathy for you. But as I read this and read the criteria for variance. Criteria for variance is very, very strict. It's very cut and dry. There's not a lot of, you know, I think this or I feel this about it. I don't believe that you qualify for the variance.

Ms. Evans: *Inaudible.*

Ms. Brown: And the reason I'm saying that is because the I know, there was the stuff provided about the sex offender registry. That's something that would affect all the properties. That wouldn't be something that just affected this property. And then when I read what it said in there about a variance, it says, let me get my glasses on here, it said it would effectively prohibit or unreasonably restrict the use of the property. Best I can tell the property and the house has been there for almost 100 years, the elementary school has been there for about 55 years, and it's been being used, and they're not being prevented from using the property. And it says clearly demonstratable hardship as distinguished meaning different from a special privilege or convenience sought. And in my opinion, this seems like more of a convenience because the house was where it was when they bought it. If they're concerned about lights coming in they can put the blinds down for the lights. That's where I'm thinking right now.

Ms. Evans: Alright, if it was to get approved, do you have any conditions?

Ms. Brown: I don't think we can put conditions on a variance. I don't think.

Ms. Evans: Great. BZA Secretary John Ireland, do you have a discussion.

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Mr. Ireland: Of course. So, the personal side of me and the emotional side of me, I want to leave people alone to do their thing. However, this is a, as was mentioned earlier, a quasi-judicial board, we have to comply for the most part with the ordinances, unless there's, you know, compelling reasons to go against it, which is, that's in there for a reason. My main issue is, there's an ordinance that says you cannot put anything other than a four-foot fence in front of your house. Now, I don't know who came up with that. I know, other communities I've lived in, because I'm retired military and lived all over the place. That's kind of a typical ordinance for most communities I've lived in, a four-foot fence and the front six-foot fence around the back and sides. For whatever reason that's in there and that's an ordinance. So, if we, and I hate to say, if we do this for you, we have to do it for others. But it is true, if we ignore the four-foot fence rule, for whatever reason it was put in place, and I'm not going to make an opinion on why that was, but then we'll have to do it for everyone and we might as well just get rid of the rule. I understand hardships. They're sort of in the eye of the beholder. I sympathize with that. But because we're quasi-judicial, and it's pretty clear to me that if we allow this variance for one property, we're going to have to either get rid of that ordinance, or we're gonna have variances, several variances a month for the same purpose. So that's sort of my opinion, going into this.

Ms. Evans: BZA member, Steven Apicella.

Mr. Apicella: I've been on this board for over 10 years. I rarely ever support a variance. I think that hardship standards very hard to achieve. But in this case, I think it does. I think it meets the requirements under the state code and under the county code. I think it's a unique situation that's not shared by other properties throughout Stafford County given its location. And I think that I wouldn't like headlights blaring into my house. I'm not sure that blinds themselves are going to be sufficient in this case. So, we'll make some motion to support a variance. I'll vote in favor of it.

Ms. Evans: BZA member Abraham Panjshiri.

Mr. Panjshiri: Currently, I am sitting on the fence of support and not. At first when I was just reading to application everything I was kind of hesitant if it was just a sex offender thing of like, oh, that was our hardship. Like that's a hardship that's shared by many but after hearing more, and looking, getting the updated pictures and everything that I'm seeing, I'm starting to see like they're proving to be that there was a hardship that may have not even been caused by something that they had done, you know, the property VDOT had, is what it seems like we were told is VDOT had come out and cleared some stuff so that was a new hardship for them that other property, the previous owners and stuff like that might not have had to endure. So that's where I'm kind of now leaning towards of being in support of the variance. Even with those strict guidelines to prove hardship.

Ms. Evans: You want me to come up before I speak.

Mr. Morgan: I was wondering if I was going to be welcomed. So, in the instances of a hardship, the basis and criteria under the Code of Virginia, as well as our zoning ordinance, pretty much defines that it cannot be a self-imposed hardship. It goes on further when we have uses or we have districts that are in conflict of areas where we have now as a house that was built in 1900, and a road that then came in thereafter. As that road came in development came in. And then of course, overgrowth. And so, this is a little bit of a different dynamic. They didn't put the road there, they didn't build the house there. So, this is not a self-imposed hardship. And that's the one criteria when they came forward and wanted to apply, we advise them of these things and say, you may be able to get this, you may not be able to get this. It's by the discretion of the board. Your critical thing here is to prove a non-self-imposed hardship. So, we

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cannot deny them their due process. But when we sit down with them at a pre-application meeting, we try to advise them, you do not have a shot at this, or yes, you do have some credible items here that do quantify as something that is not self-imposed. And so, growing up and walking that area to the old Highs and you know, my wife used to live in Spring Valley, as a resident of Stafford County, I can speak as a resident in that area, that it is not walkable. But I did use to walk up there when it was less traffic, you know, back in the 80s. So, and knowing how that areas developed, I do see where they're coming from, to where, you know, they are trying to protect their interest of a house that they just purchased. And they did, you know, pretty much revitalize that whole corner. But also, at the discretion of the board they have to prove that that is something that is not self-imposed, and something that's kind of not shared with others.

Ms. Evans: Go ahead. I was gonna say you actually took the words out of my mouth. It's not self-imposed. And so, by me going to that corner store all the time and I understand exactly what you are talking about when you have cars flying down the street and especially you live next to Cambridge Crossings. That subdivision right there and Falmouth is growing, and so I would have to agree with BZA member Steven Apicella and BZA Board member Abraham Panjshiri. But Dana, you would like to ask.

Ms. Brown: Is the BZA even authorized to approve a fence in a VDOT easement? I'm thinkin' we're not.

Mr. Morgan: So, you don't have the authority to approve any permit. That's up to the building office. So that is already an issue that's been done. But that's something that you could, we can rectify. And now that we know that it's in the VDOT right-of-way, we can certainly tell them your fence needs to be moved. Just like we went out there and sent them a notice of violation because they had a six-foot fence in the front yard. So, we found them to be a notice of violation. We will also do the same thing with VDOT. VDOT does allow things in the right-of-way. VDOT does make exceptions. They allow different pipes, they allow your mailboxes, they do allow smaller fences and they turn their head from time to time on things that really shouldn't be in the right-of-way. But as he mentioned, he said it was about as it come along 18 inches or 18 feet from the end of his property. It went along the line. So, we can certainly look into that. And we would not permit something to be in an easement. We would not permit that.

Ms. Brown: I know where I live when I want to build something in an easement on my property I have to get permission from the easement holder to ingress on that, to build a fence, build a shed whatever I'm going to do. So that's why I'm concerned about the VDOT thing and the fact that we didn't have a letter. Okay, well, I'm of the mind that I don't feel comfortable approving something for VDOT. Thank you, Mr. Morgan. I just wanted to clarify in my head on that.

Ms. Evans: I was going to ask you about the VDOT letter, but they declined it right? Like, right, they wouldn't send one. Right? They wouldn't send one. So, it's not like they are opposing it or approving it. They just not doing anything to it.

Mr. Morgan: Yeah. When they spoke to James, they, they pretty much gave him a reference that, you know, they weren't in opposition of it, but they couldn't give anything in favor in writing. So, you're exactly right, what you stated is correct.

Mr. Ireland: So, my question has more to do with a four-foot fence in the front. You've had a lot of zoning experience. Do you happen to have an opinion or actually know why four-foot fence in the front is the basic for a lot of communities?

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Mr. Morgan: The whole basis, and I've done a poll throughout the Commonwealth of Virginia, of why many BZAs approved variances all the time, all the time. We're very good at stricting, being very strict and rigid to the provisions unless it's not a self-imposed hardship. We have very, very seldomly approved a variance in Stafford County. The whole idea for a four-foot fence is for sight distance and visibility. So, when you get to corner intersections, you have those fences that can come right on the property line, you still have to have visibility. Now with right-of-way, the right-of-ways pretty much kicked back to make sure that, you know, you have additional right-of-way. Most street right-of-way require 50 feet. So, you have to build, put that fence, outside the right-of-way so you're way out of the sight distance triangle anyhow, in regards to streets. But initially, I believe that the intent was to make sure that you weren't obstructing a clear line of sight at intersections.

Mr. Ireland: Okay, because I was thinking, some busy bodies got together and for aesthetic purposes wanted a four-foot fence instead.

Mr. Morgan: Those are called homeowner's associations.

Mr. Ireland: So, do you think that whole thing has outgrown its usefulness? Because why I'm saying this is because I look at precedent setting, if we do it for this one, you know, we'll have a dozen more.

Mr. Morgan: Well, they will have to prove a hardship. So, if somebody comes in and says, you know, I really want this four-foot fence, you just approved a variance. Can you quantify a hardship? Is their property different? Is there, you know, the sighting of their property, the typography did they build their house and knowing that this is where they wanted?

Mr. Ireland: I have flashbacks of the whole dog kennel thing that we had differences of opinion depending on who came before us and what the type of dog was, and things. And it's like, they became less subjective and more subjective. And I know we have to do the subjective stuff as well. But you know, if we're going to set sort of a standard, which is what the zoning ordinances are, the definition and how you prove a hardship, I think it's going to be sort of in the eye of the beholder in some cases, but I just want to make sure that if, and you guys have convinced me I think. I was leaning one way and I think I may be leaning another way, which is good. That's the way it should be. However, I just want to make sure that we're not setting ourselves up to have to do this 20 more times by the end of the year, because people have said, ah, someone else got this. Now we can do it.

Mr. Morgan: And they'll come into the office, and they'll have a pre-application meeting with us. And we will say what is your hardship? And whether it's money, it's I want this, it would just look better.

Mr. Ireland: You can't turn them away?

Mr. Morgan: No indeed. We advise them. You would have to see it. We cannot deny them due process.

Ms. Evans: We will still have the option to reject it like we have here.

Mr. Morgan: Object, approve or deny. Yeah.

Ms. Evans: Alright, so can I get a motion on the floor to support the applicant's variance please.

Mr. Panjshiri: Motion to approve the variance.

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Ms. Evans: Alright. Those in favor say aye. Okay. I'm sorry. Is there a second? Is there discussion? No.

Ms. Brown: I have a discussion.

Ms. Evan: Okay, go ahead Dana.

Ms. Brown: So, do you guys think that this was not self-imposed then even though they bought the property like this?

Ms. Evans: I don't think was self-imposed. And I think everyone said that here, they don't think it's self-imposed.

Mr. Ireland: So, Dana, to be honest, I thought the same way however, based on what the zoning administrator said and what the colleagues here have stated I'm leaning less towards that now if that helps.

Ms. Evans: So those are in favor say aye. Those who oppose say nay.

Ms. Brown: Nay

Ms. Evans: Alright. The vote has passed. The motion has passed, I'm sorry, it is four to one. Congratulations.

Mr. D. Minix: Thank you. I want to take a second and thank you guys, no matter how you rule. I want to thank you all for coming and sitting and working. Thank you. I do appreciate you, I really do. I think everything works both ways. Thank you for being here. Okay, thank you very much.

Ms. Evans: Thank you, sir. Alright, the next item on the agenda. I know I gotta find it, because I put it away. The next item of the agenda is unfinished business, there's none. So, can I get the Zoning Administrator's Report?

UNFINISHED BUSINESS

NONE

ZONING ADMINISTRATOR'S REPORT

Mr. Morgan: I don't really have a report but I do want to make a comment and have a discussion about the BZA packets. It's been brought to my attention that there's been complaints. And so, to be fair with everyone, and all of our 27 different commissions and committees and boards, we're going to make sure that we stay strictly to the electronic format. So, if you need a copy printed, you're more than welcome to do that. And we will make sure that you get your stuff soon as we can, if not earlier by electronic format.

Ms. Evans: So, what do you mean? Explain it.

Mr. Morgan: So, we've been trying to print copies for those who are inconvenienced and then I heard that there was complaints about that. And so, we're doing favors for one and not for others. And so, we're printing some for some, and we're not printing for everybody, and we're trying to make electronic. So, I

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think the best way to solve that is to keep it just like the Board of Supervisors do, like the Planning Commission and every other AG, Historical Cemetery, Architectural Review all of our other committees and just keep it all paperless.

Ms. Brown: I thought that everybody that wanted one could have a paper copy.

Mr. Morgan: We used to, and that's how we've continued to do it until...

Ms. Brown: Why would that be a complaint?

Mr. Morgan: Well, I don't know. You complained.

Ms. Brown: No, actually, Mr. Morgan, you're incorrect. I did not complain.

Ms. Evans: No, I'm trying to figure it out. Go ahead.

Ms. Brown: No, I did not complain about the paper copies. I complained about delivery so please don't please don't speak about that.

Mr. Morgan: I know it was a complaint.

Ms. Brown: I am picking up my board package. And I was picking up Mr. Gibbons'. And I was delivering Mr. Gibbons' for him. And you had said nobody could get a package delivered but some people were getting packages delivered.

Mr. Morgan: And who were they? We would like to... because that's the problem. We weren't one to make sure that we're identifying who are getting them delivered because I know Keisha has a friend that works in social services.

Ms. Evans: So, let me clear this because I don't want her to be in the middle of it because she literally just did a favor for me because I just don't have time.

Mr. Morgan: Friends can pick up.

Ms. Evans: It wasn't that she delivered it to me on behalf of Stafford County. She lives in my neighborhood. And I literally just said, Hey, can you pick up this? But I think the dispute is someone on the board has told another board member that they were getting packages. We don't I don't know if it's accurate or not. And so, to be fair, I'm assuming Dana, you just want to if that person is getting the board package, you want it to get the board package as well.

Ms. Brown: Yes, I would like that. I just want us to be treated the same. That's all. If I've got to come down and pick up mine and deliver to Mr. Gibbons and all that...when another board member is saying that they're able to get it delivered that just kind of, you know, why, if it's all the same, you know, why is that?

Mr. Morgan: So, which board member?

Ms. Brown: Well which board member did you guys deliver the packet to?

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Mr. Morgan: We haven't delivered any that we know of.

Ms. Evans: Okay, so I'm gonna cut it all out. Is John getting the doggone, and I was gonna curse, but is John getting the packages from you guys?

Mr. Morgan: We don't have... we're not going to print them anymore.

Ms. Evans: I'm sorry, but is John Harris getting the packages?

Mr. Morgan: I have not delivered and I do not know that staff has delivered and they have been not delivering packets since December.

Ms. Evans: Ok so, then that's that. It's on the record. And so, what you're saying to us, Doug, is that you're no longer printing for the BZA at all.

Mr. Morgan: Yes, we want to stay completely consistent with every other board and that way we're going to just stay... that way there's no other complaints and we don't have to worry.

Ms. Evans: So, the packages are here already for us when we come, right? Okay. No, I mean, I'm just going to be honest. I may forget to print the packages. So, it is what it is.

Ms. Brown: Just to remind everybody, last time this came up Mr. Morgan, I believe you told me, because I said, you know, where's this coming from? And I think you told me it was coming from the top and feel free, like I always do, to go tell on you. So, I did ask my supervisor and my supervisor forwarded on to the County Administrator. County Administrator said, absolutely, we could have paper packages. Matter of fact, he prefers paper packages. And that was fine, because you were providing. I was not complaining about that. My complaint was about the delivery that we none of us were going to get it but then I was told by a board member that he was getting it. Because he threatened to quit otherwise. So, I was like, No, I don't want to threaten to quit because I don't want to quit. I like doing this. So, I just wanted the same treatment.

Ms. Evans: So, can we do this? Like, can we meet in the middle? So, no, no one will get delivered for packages. But if we continue to call, can you print them out? And I'm only asking you because like, I'll tell you, I forget. And I won't have time and I'll be up here with not a board package. And I don't want to look crazy, you know.

Mr. Morgan: We'll be more than glad to deliver one at the at the board meeting but I would like to for the BZA, there should be no inconsistencies with any other board and there should be no special provisions and that's you made a very good point. If one's getting delivered than they should get delivered. If we're putting for two, then we should print for all.

Ms. Brown: Everybody has the option to come get a printed one and as we've talked about before, unlike the Planning Commission, we don't get paid. I'm a volunteer. And now I have to go use my paper, my printer ink to print everything. And you guys well, we'll be happy to do it and the County Administrator, yes, absolutely he actually wants to supervisors to have printed packets.

Ms. Evans: Let me ask you so instead of printing, because you're doing everything electronic, are we allowed to use the iPads?

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Mr. Morgan: Yes, you are allowed to do that. That's perfect.

Mr. Ireland: I thought I asked that question. And there was a reason why.

Mr. Morgan: Why can't we? Did we look into that, Stacie?

Ms. Stinnette: They declined.

Ms. Evans: Oh, we decline, oh, to take, to get iPads?

Mr. Morgan: Oh, that's right.

Mr. Ireland: This is not an iPad. This is just a monitor. That's what I was thinking.

Ms. Evans: Oh, I thought these were the pads.

Mr. Morgan: That's right. We did bring it up at the last yearly meeting and nobody wanted iPads.

Mr. Ireland: So, can you...is this connected to the network system so you can bring it up so we can see it during the meetings?

Mr. Morgan: We can absolutely do that.

Mr. Ireland: Everybody has a different method. I go home and I look at what I think I need and I print off five or six copies and I make notes. The rest of it's stuck up in mind. You know, the pictures, I can see the pictures but I don't have them printed. So, I'm at a disadvantage when I'm wanting to refer to a picture because I didn't print it out.

Mr. Morgan: So that way you'll have every piece of the puzzle.

Mr. Ireland: I don't want you guys to have to do this either because this is so yesterday. But I understand people like hardcopies. But if we can bring it up...

Mr. Apicella: Mr. Ireland, just to be clear, this is a static screen. You're not going to be able to flip through it. Staff is going to have to take control, you're not going to go to page three, because you want to go to page three. It'll be speaking to staff and say, Alright monitor to go to page three, go to page five. So just so you know, it's not as useful as you think it is.

Ms. Evans: Okay, so then can we just go like, I'm just gonna take a vote. Abraham, do you have an issue with the iPad?

Mr. Panjshiri: Do I have an issue with an iPad? No. I mean, I just do electronic like, that's how I've done it since I've got on the board. I'm the youngest. I mean, I have my own. I did meetings with like, just pull it up on my phone like that's, I mean, that's just how I am like.

Ms. Evans: It's no big deal. Steven, what about you? You said no, you don't want an iPad? Oh, you don't have a problem. John, do you?

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Mr. Ireland: I don't have a problem supporting these guys and not having printing for it. All of these boards they have because like you said, you've got a million boards with a million people and that's like, this whole room would be piled up with hard copies of documents that's gonna end up in landfills.

Ms. Evans: Do you have a problem with the iPad?

Ms. Brown: Well, for everybody who doesn't know I bring an iPad every time it's my own iPad. And I use that if I have to look up something like a Google search that I want to look at. I don't download anything from the county website onto my device because then my device becomes FOIA-able. I also do not want to have an iPad. I remember one time they were trying to give us some old iPads from the Planning Commission and as a husband that's in IT I know that when you erase an iPad, you really don't really erase an iPad. And anything that might have been on there from another board still could be retrieved by the appropriate data mining.

Ms. Evans: So yeah, that's behind that's behind...

Ms. Brown: No, we could have other cases like that in the future. I definitely do not want an iPad. And the reason that I liked the paper is because I have to flip, I know that you guys have caught some errors in here where I was confused about, like the case numbers, and what one, what the staff report said, versus the applicant, and I had to flip back and forth. And I can't keep 25 screens open on my iPad, it's just not that big, it's hard to find. So, no, I do not want the iPad and I just I really don't appreciate how you are conveying this to this board. That was not how it was conveyed and if anybody wants to, I can share the emails with you if you want.

Ms. Evans: So, we're still back at not solving it. And I want to solve it before the...

Ms. Brown: Well the administrator said it was no problem to have paper, he preferred it. And he said, if the board had had their paper packets that couple months ago, they wouldn't have had to delay their board meeting because the electronics were down. And he totally understood that we want to paper, that wasn't an issue. I've been able to get paper anytime I've asked for it. I sent James a note this time and picked it up. In the last several months I've asked for mine or Bob's or whoever's and I've come and gotten them. My issue was that you said nobody was going to get them so now I'm having to drive down there and do it and drive out to Bob's but then somebody else said that they were getting them. And that was my issue.

Ms. Evans: So now that that issue has been resolved and Doug is saying that there's other ways that we can get the package besides having staff print them off. We can get iPads to where four of us do not oppose of having iPads. I want to meet everybody in the middle. And I know we can't make everybody happy. But like,

Mr. Morgan: Well, let's try. Let's try it. Let's try a trial run. Let's try our next meeting that we have that we'll use, the computer will use that. It won't be interactive, but you can say, can I have page number four? Could you go to, you know, you can still look it up if you want to use your devices in front of you. If you have your own devices in front of you. You can certainly do that.

Ms. Evans: I feel bad for Stacie then, Stacie or James because like Steve said, Steven said that it's not interactive. It's not interactive. And he's up here with the Planning so he knows right.

Mr. Apicella: yeah, I don't think this is...

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Ms. Evans: So...

Mr. Ireland: *Inaudible*... hey, can you skip through the next twenty-four pages until they find the one that she wants to same thing, but she wants to start at 23 and he wants to start...

Ms. Evans: Right, I think it'll probably be a mess. So, I'm just gonna say as the chair, I'll just make an executive decision, we just get iPads and call it a day. And that's that, because we're not going to get printed packets.

Ms. Brown: We could get printed packets and I'm not taking an iPad. Just saying and you can't make me. Okay.

Ms. Evans: I can't make you, no I cannot. But he can say...

Mr. Morgan: and we do not have to print those packets. So, uh....

Ms. Brown: I don't know. The County Administrator sent me a letter saying you'd be happy to.

Mr. Morgan: Then I will take his direction because I had other conversations as well. We want to be consistent, just like you said. If one's getting delivered, they should all be delivered and if one's getting printed, then we would have to print them all and if everybody...

Ms. Brown: For everybody that wants one, you do.

Mr. Morgan: And if everybody wanted a printed copy, that would defeat the entire purpose of going electronic.

Ms. Brown: How many, and he doesn't like electronic, how many people are picking up the packets?

Mr. Morgan: For you?

Ms. Brown: For the BZA.

Mr. Morgan: You and Bob and John I guess. The three that's printed.

Ms. Brown: So, you guys are too busy to print three packets?

Mr. Morgan: It's not about being busy.

Ms. Brown: Last time you said we didn't have any budget.

Mr. Staranowicz: This time there were only two packets that were printed and picked up. This time there were only two packets that were printed and picked up because John wasn't coming.

Ms. Brown: Yeah, last time you told me this because there was no money in the budget to print packages. And that apparently wasn't exactly what I was told by the top like you told me to go talk to.

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Mr. Panjshiri: I mean, I'm also kind of the mind, if we're paying money for CivicClerk and whatever this you know, all this stuff is like, we should use it. Like that's just my opinion, because as a taxpayer and all this stuff, like, at the same time, like the county is spending money on this electronic service. And, yes, this paper is literally going to go straight into the trash can. If you don't write on it nothing like the FOIA thing.

Ms. Evan: It's going to the Recycle Bin.

Mr. Panjshiri: Yes, the recycle bin. But like the FOIA thing, like you can, if you download something on from the county website, like that's already public information if it's on the county website, like that's not a...

Ms. Evans: Well, here's why I had proposed the iPads so you don't have to worry about it. But like...

Mr. Panjshiri: Like the iPad thing, I don't know, like, that's a county administrator decision to, like, if we can expense that or whatever they do with that, right?

Mr. Morgan: We would have had them last year because we were trying to appropriate them for the budget for the BZA.

Ms. Brown: How much do iPads cost Doug, about \$600?

Mr. Morgan: I have no idea.

Ms. Brown: So, 600 times seven members, right? That's like \$4,200. And how much does it cost to print off the paper, we would have to amortize those iPads for seven years, which they wouldn't even be for the cost of printing the paper.

Ms. Evans: You know, we're gonna cut the conversation. You know what, print the papers. That's it. We're just going to print the papers. That's it. We're not going to go back and forth and argue about the iPads. We're not going to go back and forth about the papers. This is what it is. Just print the package from CivicClerk. Is there any other business that we need to discuss? The adoption of minutes.

ADOPTION OF MINUTES

2. January 24, 2023

Ms. Brown: Motion to approve. And Stacie, again, thank you on those.

Ms. Evans: Those in favor say aye. Alright. The minutes have been adopted. Is there any other business? 2022 annual report and this is motion to approve. I think we did that already?

OTHER BUSINESS

3. 2022 Annual Report

Mr. Staranowicz: We did do that but we were not able to actually approve it through email so they wanted us to do it again.

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Mr. Morgan: So, when we had that, it was the January meeting, we had the February meeting.

Ms. Evans: Okay, so can I get a motion to approve the 2022 annual report please.

Mr. Panjshiri: Motion to approve the 2022 annual report.

Ms. Evans: Is there a second? Alright, those in favor say aye. Those who oppose the Nay. Motion is approved. Can I get a motion to adjourn?

ADJOURNMENT

Mr. Ireland: Motion to adjourn.

Ms. Evans: All those in favor say aye. We are adjourned.

With no further business to discuss, the meeting was adjourned at 8:06 PM.