

STAFFORD COUNTY BOARD OF ZONING APPEALS
October 22, 2024

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) Tuesday, October 22, 2024, was called to order with the determination of a quorum at 7:00 PM by Chairman Mr. Apicella in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Steven Apicella, Abraham Panjshiri, Kecia Evans, Everet Blaisdell, Jeffrey Spinnanger, Tylor Underwood, Nathan Mowery (Alternate), Steve Gorski (Alternate)

MEMBERS ABSENT: None

STAFF PRESENT: James Staranowicz, Stacie Stinnette

DECLARATIONS OF DISQUALIFICATION

Mr. Apicella: I hereby call today's Stafford BZA meeting to order. Please silence your phones and other electronic devices. Staff, please call the roll and advise if we have a sufficient quorum for today's meeting.

Mr. Staranowicz: Steven Apicella.

Mr. Apicella: Here.

Mr. Staranowicz: Everet Blaisdell.

Mr. Blaisdell: Here.

Mr. Staranowicz: Kecia Evans.

Ms. Evans: Here.

Mr. Staranowicz: Jeffrey Spinninger. Tylor Underwood.

Mr. Underwood: Here.

Mr. Staranowicz: Abraham Panjshiri.

Mr. Panjshiri: Here.

Mr. Staranowicz: Nathan Mowery.

Mr. Mowery: Here.

Mr. Staranowicz: Steven Gorski. Chairman, we have six members of the BZA here so we have a quorum.

Mr. Apicella: Thank you. Are there any changes or additions to the advertised agenda?

Mr. Staranowicz: No, there is not.

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Mr. Apicella: All right. Thank you. Before we proceed any further, does any board member wish to make any declarations or statements concerning any matter being heard by the Board tonight? Seeing none, I'd now like to explain the roles and responsibilities of the BZA and its procedures. The BZA is a quasi-judicial body whose members are volunteers appointed by the Circuit Court of Stafford County. The purpose of the BZA, as authorized by the State Code and Stafford County Zoning Ordinance, is to hear and decide on special exception application requests, hear and decide upon request for a variance from the Stafford zoning ordinance when a little enforcement of the ordinance will result in unnecessary hardship to the owners of a property, hear and decide appeals from any order requirement decision or determination made by the zoning administration, sorry, Zoning Administrator and hearing on 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 as appropriate after review of jurisdiction and standing. The Stafford BZA consists of seven regular members and two alternate members. Alternate members may only participate when a regular member is unable to hear a case. The minimum quorum for the board to operate and take votes is four members. Let the record reflect that we do have a quorum tonight with a total of five regular members voting. That's Steven Apicella, Everet Blaisdell, Kecia Evans, Abraham Panjshiri, and Tyler Underwood. Alternate members standing in for a regular member and voting tonight are Mr. Mowery. County staff is represented tonight by Mr. James Staranowicz. Today's public hearings will be conducted in the following order, the Chair will ask the BZA Secretary to read the case and BZA members can ask questions of County staff regarding the case. The Chair will then ask the applicant or their representative to come forward, state their name and address and present their case to the board. The applicant's presentation shall not exceed 10 minutes, unless additional time is requested to and granted by the board. Members of the BZA may ask questions of the applicant regarding their case. The Chair will open the public hearing and invite members of the public who wish to speak about the case to come forward and address the Board for no more than three minutes. The applicant will have an additional opportunity to address the public comments and ask any further questions by BZA members. After the applicant's final response, the Chair shall close the public hearing with no further public comments and bring the matter back to the board for further discussion and deliberation. The Board shall review the evidence presented, and the Chair shall seek a motion. Members of the public and/or staff may submit relevant material before or during the hearing. I'd like to provide some additional information for the applicant tonight. All applicants are reminded that there are six members voting present, and any application requires a minimum of at least four votes for approval. If you decide that there are not enough members present tonight to enable you to receive a fair hearing you have a right to defer your public hearing until another meeting. However, you may defer the hearing for this reason only once in any 12-month period to request a deferral. You need to do so at the beginning of your presentation. Deferral requests are granted at the sole discretion of the board. Applicants may also withdraw their application prior to the closing of the public hearing on their matter, provided the applicant has not withdrawn a substantially similar application within the previous 12-month period. Also please be aware that the BZA will not hear any denied application for special exception or variance which is substantially the same request as determined by the board for at least one year from the date of its previous decision. Any persons who do not agree with the decision of the Stafford Board of Zoning Appeals will have 30 days to petition the Stafford County Circuit Court to review the BZA's decision. The Stafford BZA requires that any persons who wish to speak before this Board shall be administered an oath. Therefore, anyone who wishes to speak tonight, please stand, if possible, raise your right hand and agree to the affirmative by saying I do after I read the following statement. Do you hereby swear or affirm that all of your testimony before this Board shall be nothing but the truth.

Audience members: I do.

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Mr. Apicella: Thank you. Please be seated. Okay, we'll now move on to the first public hearing, or the only public hearing. Has staff determined the application and associated materials are complete?

Mr. Staranowicz: Yes, the application is complete.

Mr. Apicella: Okay, I'll now ask the Secretary to read the first case.

APPLICATIONS AND APPEALS

1. V24-03/24155931 – John D. Edgar, Trustee of the Edgar Family Trust – A request for a variance from the requirement that no accessory building shall be located within ten (10) feet of any property line on any lot greater than one (1) acre contained in Stafford County Code Sec. 28-38(c), "Accessory buildings/structures" on Tax Map Parcel No. 49F-6, located in the A-2, Rural Residential Zoning District (Property). The Property consists of approximately 2.8843 acres and is located at 5 Potomac Overlook Lane within the Aquia Election District.

Ms. Evans: First case, V24-03 24155931, John D. Edgar, Trustee of the Edgar Family Trust – A request for a variance on Tax Map No. 49F-6, located within the A-2, Rural Residential Zoning District. The request seeks a deviation from Stafford County Code Section 28-38(c), "Accessory building/structure." The property is located at 5 Potomac Overlook Lane, within the Aquia Election District. The Board of Zoning Appeals is to consider a request for a variance of Stafford County Code Section 28-38(c) "Accessory buildings/structures," specifically to allow for a shed to encroach into the side yard. The applicant is requesting a variance of Stafford County Code Sec. 28-38(c), "Accessory buildings/structures," specifically to allow for a shed to encroach into the side yard, located at 5 Potomac Overlook Lane, Tax Map Parcel No. 49F-6. An accessory structure is defined as: Accessory use, building or structure. A use, building or structure that is subordinate in area, extent and purpose to a principal use or structure. Performance regulations, Stafford County Code Sec. 28-38(c) states... Do I have to read this entire? It's the discussion and analysis.

Mr. Apicella: What's our standard practice, Mr. Staranowicz?

Mr. Staranowicz: Typically, we would read the whole thing.

Mr. Apicella: Okay, take deep breaths.

Mr. Staranowicz: But I would say, you can go through the first section and then the second one, because that's what pertains, mostly to the case tonight.

Ms. Evans: Okay, no problem. All right, Discussion/Analysis: Accessory buildings/structures. No accessory building or structure shall be located within ten (10) feet of any property line on any lot greater than one acre; no accessory building or structure shall be located within five (5) feet of any property line on any lot of one acre or less; no accessory building and/or structure, except for walls, fences and signs shall be located in any front yard or street-facing side yard. No accessory building or structure shall be located within ten (10) feet of any other structure, unless it is attached to the primary structure and does not intrude into any required setbacks. In residential districts of lots less than one acre, no accessory building shall be located closer than five (5) feet to the property line except, on townhouse lots, accessory buildings may be located no closer than three (3) feet to the side property line and be exempt from rear setbacks where the lot abuts a common open area or other easement at least ten (10) feet in width. Notwithstanding those structures specifically excepted in subsection [28-](#)

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24(1) or by subsection (d) below, no accessory building or structure shall exceed the height of the primary structure. On townhouse lots, no accessory building and/or structure shall exceed ten (10) feet in height. All accessory buildings and/or structures, except for fences or walls, on townhouse lots shall be no more than one hundred (100) square feet in size. All accessory buildings and/or interpretive buildings within the H1 district shall be exempt from the preceding conditions listed in this subsection. In this instance, the applicant is requesting to allow a shed to be located in the side yard. The required side yard for property greater than one (1) acre is ten (10) feet from the side property line. The applicant is requesting that the shed be allowed to be placed less than one (1) foot from the side property line. No variance shall be authorized by the Board of Zoning Appeals, unless it finds: 1) That the strict application of the provisions of this chapter would produce undue hardship; 2) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; 3) That the authorization of such variance shall not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; 4) That the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter. Zoning History: The single-family dwelling was constructed in 1994. The current owner purchased the property in March 1995. Existing Conditions: The subject property is approximately 2.8843 acres. The property is mostly wooded. There are no wetlands, floodplain, or streams on the property that would impact the development or use of the property.

Mr. Apicella: Thank you, Madam Secretary. Are there any questions for staff? Mr. Blaisdell.

Mr. Blaisdell: No, not at this time.

Mr. Apicella: Ms. Evans.

Ms. Evans: No, not at this time.

Mr. Apicella: Mr. Panjshiri.

Mr. Panjshiri: Not at this time.

Mr. Apicella: Mr. Underwood.

Mr. Underwood: Not at this time.

Mr. Apicella: Okay, I do have some questions. So as I understand it, the size of the property is roughly 3 acres and what are the A2 setback requirements on A2 parcel?

Mr. Staranowicz: The setback requirements for principal dwelling or principal structure would be 40 feet from the front, 10 feet from the side and 35 feet from the rear.

Mr. Apicella: And the purpose of this request is that the applicant wants to place a storage shed almost at their property line boundary. Is that correct?

Mr. Staranowicz: On the side, yes.

Mr. Apicella: Do we know if the home has an attached or detached garage?

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Mr. Staranowicz: I believe it has an attached garage.

Mr. Apicella: And could an existing garage be used to store a lawn tractor?

Mr. Staranowicz: It could be, yes.

Mr. Apicella: Okay. From staff's perspective, I don't know if you went out to visit the site could a storage shed be placed somewhere else on the property?

Mr. Staranowicz: It's a possibility that it could be placed somewhere else on the property, but with the access, it might be a little difficult to place it.

Mr. Apicella: Can you help me understand what you mean by the access?

Mr. Staranowicz: There's underground propane line that would impede the placement of the shed.

Mr. Apicella: On the entire parcel?

Mr. Staranowicz: Not on the entire parcel. There's also some slopes that might come into play, as far as the steepness of the slope.

Mr. Apicella: So again, from your vantage point, the back of the property, the left side of the property, are those viable areas, notwithstanding what you just said?

Mr. Staranowicz: Probably not the rear or the left side. There may be a little bit of an area past where they're anticipating putting the shed that would be back further on the right-hand side past the driveway

Mr. Apicella: Do you know how big a shed they're talking about?

Mr. Staranowicz: I believe it's a 12 by 12. Yes, it's 12 by 12 shed.

Mr. Apicella: Okay, when the state legislature made changes to the variance rules, it still left criteria the BZA must consider when approving a variance. Is that correct?

Mr. Staranowicz: Yes.

Mr. Apicella: And those criteria are spelled out in the Stafford County code and the variance application.

Mr. Staranowicz: No, they're not. That's something that needs to be updated within our code, which is in the process of being reviewed for that.

Mr. Apicella: Okay, but there's still criteria that must be met.

Mr. Staranowicz: Yes, under the state code, there's criteria that speaks to disabilities.

Mr. Apicella: Okay. Is an existing home with an attached garage on this parcel a reasonable use of the property.

Mr. Staranowicz: Yes.

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Mr. Apicella: And would disallowing a storage shed to be placed one foot from the property line significantly limit the homeowner's enjoyment of the overall property.

Mr. Staranowicz: I'm sorry. Can you say that again?

Mr. Apicella: Would disallowing a storage shed to be placed one foot from the property line significantly limit the homeowner's enjoyment of the overall property?

Mr. Staranowicz: No, it would not limit his enjoyment.

Mr. Apicella: Okay, thank you. Okay, would the applicant like to come forward to present their case?

Mr. Mowery: Mr. Chair, I have an opportunity to ask questions.

Mr. Apicella: Oh, I'm sorry, Mr. Mowery, please.

Mr. Mowery: I just have one question for my own education. When we're talking about no accessory buildings or structures shall be located in the front or street facing side yards of a property. Given, as we look at the aerial map of this property, can you help define, for me what the street facing side yard would look like for that because it appears as if there's streets on two sides of this property.

Mr. Staranowicz: The front of the property would be Potomac Overlook Lane and the street facing side would be Waterbury Court.

Mr. Mowery: And that would exist all along Waterbury Court until it becomes even with the home. Would that be fair?

Mr. Staranowicz: No, that street facing side is the entire length of the side.

Mr. Mowery: Okay, so where do we define the rear of the home in this in this case? It's difficult to explain without looking at the image but the side yard only exists where it touches Waterbury Court.

Mr. Staranowicz: The rear property line would be the property line directly parallel to the front property line, which would be Potomac Overlook. Okay, so it'd be directly behind the house there.

Mr. Mowery: Okay, I understand that. Thank you. That's all I have.

Mr. Apicella: I'm just trying to understand where the... did you say that that a shed cannot be put in the front or the side yard or not within a certain distance from the property line?

Mr. Mowery: Okay, and maybe I need clarification on this, but as we were reading it, no accessory building and or structure, except for walls, fences and signs shall be located in any front yard or street facing side yard. And that's at the beginning of the accessory buildings and structures definition.

Mr. Staranowicz: That would pertain to the required front yard. So, in this case, anything 40 feet from Potomac Overlook is considered the required front yard. So they could not place the shed in that portion of the property.

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Mr. Mowery: I understand. That helps define a little bit more. So, beyond that 40-foot within there, still within their front yard, but beyond the 40-foot away from the street, would make an acceptable location for an accessory building or structure?

Mr. Staranowicz: Yes.

Mr. Mowery: Thank you.

Mr. Apicella: Okay, any other questions? All right, thank you. Sir, would you like to come forward and present your case?

Mr. Edgar: Good evening board members. My name is John Edgar. I've been a resident of Stafford since 1995. The purpose of my request for a variance is so that I can build a 12 x 12 shed to store all of the equipment that is currently being stored in my garage that prevents me from placing my cars in the garage. The issue at hand is that the lot, even though it is 2.8 acres or thereabouts, it's an extremely hilly property, and it's heavily treed. So when they built the house, what they basically did is they...there's a knob on the property and they chopped the top off the knob and built the house right on that area. The location of that knob is very close to the property line with abutting lot 8. In fact, the southeast corner of the house is only 17 feet from the property line. As far as the general property is, where the placement of the house is, the property slopes down and away in all directions. And I emphasize all directions because it's on a knob, literally. So the front yard that faces Potomac Overlook Lane, which is the south exposure of the house, contains my driveway to get up to the garage. It also contains the septic tank and the septic field, so we generally avoided anything going into that area for those reasons, because it would interfere with the septic field. Also placing anything in that area would make it visible from the road, and in my opinion, would detract from the look of the neighborhood. I have many neighbors who currently have sheds, but they are all located either to the side or behind the house, so that, to minimize the visibility. The particular shed location I'm looking at would not be visible from any public road, and it would not be visible from any of the neighboring houses. In fact, the nearest neighboring house, which is on lot eight, which is the one in question, is 500 feet away through trees, so there's no way they're going to see the shed. In terms of the property itself, the west side yard, which is the side yard that is parallel to Waterbury Court, is only seven feet at the front and 17 feet at the back, and it falls off very rapidly after that, almost at a 40- or 50-degree slope because of the way they chopped the knob off. The backyard extends perhaps 25 feet beyond the house. And after that, you're in a tree line, and you're also in a very extensive slope downward, probably 45 degrees downward. The issue with the backyard in terms of placing a shed there is that in order to get there with a mower, for example, I would have to traverse a slope sideways this way of at least 15 degrees. And if you look at everything, everybody says is you do not run a mower at that angle because of a tip over issue. The other problem there is that the propane tank, I have a problem with the structures that are in the backyard right now that would prevent my deck of my mower from getting through them. The mower is 54 inches wide, and the unobstructed path that is not on the 15-degree slope is only about 48 inches, so I would not be able to get the mower through that. Which basically says that the eastern side yard, which is abutting lot eight, would be the only place that I could literally build a shed at the way my topography is. The issue there is that in order, I have a propane tank, I have a line going from the propane tank to a generator. And if I put the shed away from the property line by at least 10 feet, I would be building it over the top of the propane line, and I really don't want to do that for, obviously, for maintenance reasons. So that's what led me to look to build it closer to the property line so I can avoid all of those issues. And I did talk to my neighbor, and he's fully supportive of my request. And I've talked to my HOA homeowners association neighbors, and I know you guys sent them a notification, and none of them have indicated any problem with the request, so I respectfully request that, based on the topography and the limitations of my lot, that I'd be able to

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build this shed so that I can actually park my cars in my attached garage. And I appreciate that. Thank you very much.

Mr. Apicella: Thank you, sir. All right, questions for the applicant? Mr. Blaisdell.

Mr. Blaisdell: Yeah, I've just got a minor question. You talk about the slope and the rear of the yard being 15 degrees, and you can't mow it with the lawn mower, but I see that it is in grass. So I guess it's been getting mowed one way or another. Also, if you look at the pictures here of the concrete pad, it looks like there's room enough around behind this propane tank that's buried, if it got shifted over, you could probably get a shed in that little area and still be off of the property line your 10 feet. You may have to alter what you have a little bit to get your lawnmower through it, but I think it can be doable.

Mr. Edgar: Well, ... can I respond to that? So, the area that I think you're talking about is, I'll just use directions, north of where that concrete pad is going, towards the back of the further back in the house. And the issue with that is that it has a very steep slope at that point. It's about 15 degrees. I think I noted some of that on the plot so it and the other thing would be, I am not sure, and I don't have the dimensions with me to make sure. I don't believe the near side, the side of that site closest to Marlborough Point Road would, in fact, be more than 10 feet from the property line. I haven't had an opportunity to measure that. Because if you look at the angle of the property line, you'll see on the concrete pad, which is literally on the property line, it doesn't diverge at a very large angle. It's 20 degrees north, so the area that's right in there would probably still be within 10 feet of the property line. although I haven't had a chance to actually measure that.

Mr. Blaisdell: So you're trying to put up a shed and not have to do any grading or clearing or anything of that sort. You just want to open spot that's already existing.

Mr. Edgar: Well, an open spot that already exists and is reasonably level. Reasonably level. Because if it's 15 degrees, which a lot of that area is, if you take a 12-foot section, you're going to be, and I'm an engineer, so pardon me, it's going to be 18 inches or more higher at the back side.

Mr. Blaisdell: So you might have to do a little groundwork. Gotcha. All right, that's all.

Mr. Apicella: Thank you, Mr. Blaisdell. Ms. Evans?

Ms. Evans: Yes. Can I ask the applicant... like, I'm still a little bit confused, and maybe the board members can help me. You want to put the shed in the front, correct?

Mr. Edgar: No.

Ms. Evans: Not in the front? Is it the back?

Mr. Edgar: The front is the section of the house that goes up with Potomac Overlook Lane. Okay? The house faces south with Potomac Overlook Lane being in front of the house. The side yard that I'm looking at putting the shed is to the east. So if you're looking at the house from Potomac Overlook Lane, it would be on the right-hand side.

Ms. Evans: Okay, okay. Because I was confused. I guess it's different from when its in color versus black and white. So, I was like, wait a minute, where do you want to put this thing at? Okay, alright, I got it.

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Mr. Edgar: The homeowners association does not have a stipulation that sheds cannot be built in front of the house. However, there are no sheds built in front of the house for obvious reasons. It's an eyesore. Anybody that's built one is either put it in the side yard or the backyard to keep it out of view.

Ms. Evans: Correct. Okay, that's what I wanted to make sure. I was like, wait. Thanks.

Mr. Apicella: Thank you, Ms. Evans. Mr. Panjshiri?

Mr. Panjshiri: No, not at this time.

Mr. Apicella: Mr. Underwood?

Mr. Underwood: Yes. Is the request that you're making the least, let me phrase it a better way. Is it possible to get the proposed shed any further from the property line than you are proposing?

Mr. Edgar: It's possible. The thing that I don't want to do is I don't want to cover up that propane line, because if I have to do maintenance on it or something, it's buried so I could get maybe a foot or two away. But then I'm going to start going over the top of that propane line.

Mr. Underwood: Thank you.

Mr. Apicella: I'm just going to piggyback off of Mr. Underwood's question. I'm not sure where this is going, but one of the considerations for the BZA is to minimize the potential extent of the variance. So right now you're proposing to put it one foot from the property line and kind of, again, thinking off of the same lines. Mr. Underwood's question, if you moved it somewhat more forward, how far forward could you move it so that you're not right on the property line? I mean, I know it's going to take work and it'll probably cost money, but again, that's...

Mr. Edgar: I, unfortunately, other than looking at the pictures, I don't have a feel off the top of my head for how... I would say that I could not do any more than two or three feet, because then, if you look at the picture, for example, in there, you'll see on page 29 of the application, so to speak, on this particular picture, the shed would generally be where this patio area is, and you can see that here's the gas line coming from the propane tank to the generator, which is off to the side here. So at most, I could probably move it towards the house maybe two or three feet before it starts to encroach on the propane tank line.

Mr. Apicella: So you'd still be two or three feet from the property line is what you're saying. Okay.

Mr. Edgar: Yes, right. Otherwise, I mean, by going further than that, I'm building it right over the top of the propane tank line.

Mr. Apicella: I understand. Mr. Mowery.

Mr. Mowery: Thank you. I have a couple questions of my own but I'm going to keep dovetailing off of this topic, just so we stay focused on one topic at a time. If you shifted that two or three feet, could you also reduce the size of the overall structure or are you already at the smallest structure that would fit the utilization that you want?

Mr. Edgar: I'm pretty much at the minimum size of the structure. Because, as I said, my objective is to get all my equipment, that garden equipment that's currently taking up I have a two-car attached garage.

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Can't put any cars in it because of all the equipment I have. So if I downsize some of the stuff, I'm still going to need probably at least 12 by 12 in order to drive the lawn tractor in, put the power washer, etc., etc., and that just happens to be a pretty much a standard size shed for the local builders to create.

Mr. Mowery: Okay, understood, that makes sense. So when the board looks at granting variances, one of the things that we have to look at is whether enforcing the current zoning ordinance would effectively prohibit or unreasonably restrict your use of the property. You acquired the property in 1995. Is that right? Yes, what have you been doing to take care of the lawn back there thus far and how has that changed recently?

Mr. Edgar: Well, two things to note. There isn't much of a lawn back there, because when they chopped a knob off to build a house, they pushed all the clay material back. So my backyard is basically totally clay. And so, I don't know if the zoning people were out there, but there's no grass back there. And when there was some grass, we did it with a weed whacker or I believe it's one time we did it with a push mower, you know, rotary mower, something that you could bring back there and not have to drive it on the slopes.

Mr. Mowery: Is it fair to say that adding this shed would provide you more of a convenience to do that lawn care in the back than a necessity?

Mr. Edgar: I don't know if the shed itself would provide any additional use for mowing. The problem I have back there is that, like I say, the lawn tractor mower, if you go back there, those slopes are 15 degrees or more, and you don't drive, I roll the one tractor once. You don't drive a lawn tractor sideways on a 15-degree slope unless you have a death wish, so to speak. So, if there's any mowing to be done back there, we would be doing it with weed whackers and or, you know, 24-inch rotary mower. Okay, so I don't think the shed would have any impact on a carrier to the backyard, so to speak.

Mr. Mowery: And in regards to the storage of your vehicles within the garage, is that a requirement that's being impacted on you by either the HOA or otherwise, or are they suitable to be stored in the driveway, as they have been?

Mr. Edgar: Well, that raises an interesting point. I'm going to be 80 years old on my birthday. Okay? My wife is 77. We'd like to be...as I said, the topography of the house slopes down and away in all directions. So my driveway, from my garage door down to the street, is a continuous 16% grade. So right now we are parking on it, but there is not a flat area. It's 16 degrees right from the garage door all the way to the street. So as we get older, what we're wanting to be able to do is put the cars in the garage so we can enter them from the house on basically a flat slab.

Mr. Mowery: Makes it a little bit more of a safe...

Mr. Edgar: Yeah, it's safer because right now when we go outside, we're immediate., once we come off our walkway, we're on a 16 degree slope in the driveway. So for example, I don't want to bore you, but when you have that incline, you got to be careful opening doors, because they'll just rip open on you. So that's why we would really like to get the cars in the garage, so we have a flat area for ingress and egress. You know, doors are not going to be swinging and all that kind of stuff.

Mr. Mowery: Okay, that makes sense. That's all my questions. Thank you, Mr. Edgar.

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Mr. Apicella: Just a quick question, did you put in the concrete pad or was it there when you bought the house?

Mr. Edgar: I had it put in.

Mr. Apicella: When was that?

Mr. Edgar: Two or three years ago.

Mr. Apicella: With the intention of putting a shed there?

Mr. Edgar: No, It's a patio. Basically, it was a patio. But now that I'm trying to create a, you know, a shed that makes it the best choice, so to speak.

Mr. Apicella: Okay, this is probably getting way into the weeds, literally. But how much grass area do you have to, I'm looking at the overhead, how much grass area are you actually cutting with a tractor?

Mr. Edgar: Well, I have to cut the entire front yard,

Mr. Apicella: Which just give me an idea of what that is.

Mr. Edgar: Half an acre. And then the other thing I have to cut is I have two road exposures, so I have to do all of the road frontage going down Potomac Overlook Lane and around Waterbury Court. So that's another, I'm going to guess a third of an acre or more.

Mr. Apicella: All right, any further questions for the applicant? Thank you, sir. It's a technicality, so I'll do it, but there really is no other person in the audience unless your wife wants to speak. I'll now open the public hearing on this matter. If there are any members of the public who wish to speak in support of the application. Please come forward now. Okay, yes, ma'am.

Mrs. Edgar: The part that really worries me...

Mr. Apicella: Ma'am, just one second. You need to state your name and address.

Mrs. Edgar: Maria Edgar, Stafford, Virginia.

Mr. Apicella: Thank you.

Mrs. Edgar: What concerns me the most is that we're getting older, and it's getting harder and harder to get out of that car, and the door swings back really bad. And when it rains it can get very slick out there. If we get any ice or anything, we've talked about this. That's why we want to be able to put the cars in the garage where we're coming down onto dry land. If we fall at our age, that could be the end of us.

Mr. Apicella: Understand. Thank you. I'll now ask if there are any members of the public who wish to speak in opposition to the application. If so, please come forward. Seeing no one. I'm going to close the public hearing and bring this matter back to the Board for discussion and deliberation. If anybody would like to start. Mr. Mowery.

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Mr. Mowery: I'll kick off discussion on it. I think that, as I mentioned, we really have to look hard at what the alternative solutions would be in place, because we don't freely have the ability to grant variances when something would make a more convenient position. But in this case, it sounds like there is opportunity to put something in the front yard, even though the HOA, it's not done already in the neighborhood. The HOA doesn't restrict it. It sounds like the opportunity exists there. I also think maybe that there's other opportunities to clear out the garage for that space, and so I'm hesitant to be in support of granting this variance, because of the other opportunities that exist to get around the dilemma that they're in.

Mr. Apicella: Okay, other folks? Mr. Underwood, any thoughts?

Mr. Underwood: So while I do see the potential to place something in the front yard, I do think that that could be seen as an undue hardship because of the potential impact on home value esthetics. And while possible, I think, could be construed into being an undue hardship. I do feel as though there's some opportunity to increase the offset to the property line, as discussed, and so I think it would be relatively in support if we increase the offset from what is being requested.

Mr. Apicella: Mr. Panjshiri.

Mr. Panjshiri: I'm in the same boat right now. I'm trying to see in the GIS system, looking at the other contours for the surrounding properties to see if this is something that's shared. And kind of sort of not really. They do have a steep grade, like they were talking about. So I'm in the same boat right now. Kind of still trying to decide

Mr. Apicella: Mr. Blaisdell.

Mr. Blaisdell: I'm kind of leaning towards what Mr. Mowery was saying about some other options could be explored about placement of it. I still think there's some room to adjust it over in the area where they want to place it, if some alterations and some groundwork and a little bit of muscle. I think it could either go around back, and he's talking about bringing it closer to the house, but I think if it went kind of back and over, grade looks about the same. I'm looking here at the topography map, and it's all, I mean, it gets steeper the further away from the house you get, but all the way around the house, the lines are pretty much the same, even in the area where the existing pad is. I know the existing pad would be mighty convenient, but it's already over the property line, and it's still going to be really close, so I can't support it as it is now.

Mr. Apicella: Ms. Evans?

Ms. Evans: I mean, I'm, I'm little, like, on the fence of supporting this only because, like, what she said, like, they're getting older, and to me, that can be, like, an undue hardship, like, this is some, yeah, I'm like, I'm kind of on the fence, but I understand what you're saying, that, yes, like, if you because this is looking at what we're supposed to be doing right, like, exactly, I totally get it, totally get it right, and that right there is why I would lean to "no". But when, like, I get what she's saying, and far as like, they're getting older, you know, in the front, they put it in the front, it's, again, it's not, you know, it's not eye candy. So I'm just leaving it there.

Mr. Apicella: I'm really torn on this one. You know, as folks know, I'm really a kind of a stickler when it comes to these matters. I think the applicant made a pretty good case for the topography, at least on the back side, and maybe on the side where the where the proposed shed would be. Not so yet convinced

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on the front of the house. On the other hand, and I'll readily admit, age is probably not a reason for granting a variance. There is a disability, kind of exclusion, but that wasn't brought up in this case. I do think this is more matter of preference than necessity, so I'm not quite sure where I am. I do definitely appreciate, I mean, I can't use my garage because that's my storage shed, basically, and that's where I put my tractor. So that's a choice. But I also understand your circumstances as you've explained it, and the grade where you're currently parking the car so from that vantage point, I understand why you would want to put your cars in the garage and move stuff out so that you can do that. So really, the sticking point for me is the front yard, whether or not a shed could or should go in the front yard versus the side yard. So that's kind of where I'm at. Is anyone willing to make a motion here, whether it's changing where it is on the side yard, a foot or two, or putting it in the front yard, driving your decision on what kind of motion you'd like to make.

Mr. Panjshiri: I mean, I'm kind of with Kecia right now. Just the fact of like, I think, the undue hardship part is where it's like, it's very relative in my opinion. I feel like undue hardship between applicant could be in between property, and that's why none of our judgments, like, kind of rely on each other. Because I was like, oh, we kind of just did this for our previous case last time. But with that, like, that's where I'm seeing where it could be a hardship, because it's like, you know, are you going to tell people to get rid of their stuff? I'm not getting into all that. I would be open to seeing if there's a possibility of, like, lessening that it's not a foot, less than a foot of from the property line, if it has to be, if it can be adjusted a little bit. So that's not that significant change to the variance. And the front yard, do we know how far back that house is set back right now?

Mr. Apicella: Would the applicant like to come forward? We don't normally do this, but I'm going to give a little difference here. You've heard kind of what our concerns are.

Mr. Edgar: Yeah, I've heard so I'll address first your question. The length of my driveway from the street to my house is 165 feet. So having heard all the concerns that the members have, would it be possible, I'm just asking this is, if we move the shed location closer to the house, just move it away from the property line, closer to the house, that will place it over the gas line. But that may be something I have.

Mr. Apicella: I personally wouldn't want you to do that.

Ms. Evans: I wouldn't want you to do the gas line.

Mr. Apicella: I wouldn't want you to do that.

Mr. Edgar: Yeah, it's a propane line. It's, you know, it's there, because that would put it more than 10 feet from the property line and more than 10 feet from my house, because that area there is about 35 feet wide. So if you came 10 or so feet away from the property line, and do 12 feet, you're still going to be more than 10 feet away from the house itself. Which would I think meet the zoning requirements if I'm correct.

Ms. Evans: Can I ask a question? You're building the shed right? So, I guess, my concern when you say that, like you put it on the propane gas line, I'm like, oh my gosh, like, what if...

Mr. Edgar: Well, just I need to be a little bit careful saying that. The shed is going to be a portable building, number one. So it's going to be built on a wooden foundation, if you will. Runners basically. It's not a, you know, locked down to a full foundation, and the gas line is at least a foot deep into the

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ground. So I guess what I'm saying is, yes, the building will be over the top of the gas line, but we're not going to be poking holes in the ground to, you know, to secure the shed. It's going to be sitting on a set of skids, basically, like you see on a normal shed. So it'll be sitting four inches off the ground on a four by four.

Mr. Apicella: So if that were doable, where would it be in relationship to the property. Right now, you're at one foot from the property line. If you moved it further closer to your house, how far away, I'm going from the property line, how far away from the property line would the edge of that storage shed be?

Mr. Edgar: Here's an example, the concrete patio that is there now that touches actually goes over the property line a little bit. It's 12 feet in length. So, my thought would be, if I take the shed and I place it right next to the patio, touching it, in fact, and it's 12 feet wide, that's going to take me 24 feet from the property line. The property line there is 35 feet.

Mr. Apicella: Sir, then you wouldn't need a variance.

Mr. Edgar: Well, that's what I'm getting at it. I might not need a variance if we went that direction, because it would be 10 feet off the property line. It would be 10 feet off the building, more than 10 feet, 12 feet wide. So the only thing there, and again, if that's what it takes to get it up, I'll be willing to do that. It would just mean a little inconvenience in terms of, you know, it's going to be over the top of the propane line. If I've had to, you know, repair it, then I got a little bit more of a problem than normal. But so be it. If that's what it takes. We're not putting in the front for sure, because the neighbors would kill me. I'm the president of homeowners association. They'll kill me if I trash the neighborhood by putting a shed in my front yard.

Mrs. Edgar: Can you just explain. I don't understand. I'm just not getting it of why this is a problem.

Mr. Apicella: It's a problem because there's this... This is why I asked the question to staff. There's criteria in the state code which sets a very high threshold for granting a variance. A variance is basically saying, well, despite everybody else having to abide by these rules, I want an exception so that I don't have to abide by these rules. And it's not just an easy yes or no. There's certain criteria that have to be met. And the two criteria are either that there's a hardship associated with the property, meaning the topography would not allow a shed, in my opinion, given this specific set of circumstances, anywhere on your two-acre, three acre parcel. And the second piece is that it would unreasonably restrict the utilization of your property, which is, to me, a very high standard. You've been living at that home since 1995. So given that it's what almost 30 years later, not having you haven't had a shed on your property thus far. Why would at this point not having a shed take away your ability to enjoy your property? I didn't set those standards. That's the state standards, and we have to abide by the state standards.

Mrs. Edgar: But they're saying, then they know what's good for us.

Mr. Apicella: They're not saying that Ma'am.

Mrs. Edgar: We'll they're saying it, from what I hear.

Mr. Apicella: Well, those are the criteria. Those are the state...

Mrs. Edgar: That they know better than what we want for us. That's all. I mean, nobody is even going to see that back there and this is on our property.

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Mr. Apicella: I understand that, ma'am.

Mrs. Edgar: This is America.

Mr. Apicella: It is America, ma'am, but there is criteria. You're asking for the ability not to have to abide by the rules. And so it's not easily, that ability is not easily granted. So I just, I got to leave it. This is not kind of a give and take. I just wanted to give you an opportunity to respond to some of the concerns that we had. I'm going to go back to...

Mrs. Edgar: He's going to shut me up. He doesn't want to hear it.

Mr. Apicella: I appreciate your concern, ma'am. Ma'am, I gave deference, which is something I don't normally do. I understand that ma'am. So, I guess again, the question is, I got to look back at my notes here. James, you got to remind me, if they wanted to withdraw their application right now and rethink about this. Could they come back in less than a year? If he goes back and revisits it and says, No, I can't now that I've looked at it, I can't do it. Can it come back or does it take 12 months because we wouldn't have voted on it. So this is what I have in my notes, Applicants may withdraw their application prior to the, well, it's prior to the closing of the public hearing, which I've already done.

Mr. Mowery: In the scenario in which Mr. Edgar described, he wouldn't need any type of variance. So even if he left today with a denial, he'd still be able to pursue a shed the way that he described as the alternative. But that doesn't limit us from granting whatever variance the board feels would be justified in the scenario, if it's something different than what they requested or actually denying it, I think, and then they can take that information back and decide what they want to do with it, either pursuing it with whatever limited variance was granted or with the denial, pursuing it within the normal justifications of the ordinance.

Mr. Apicella: Let me ask an alternative. Would folks be amenable to me reopening the public hearing and giving them a chance to withdraw?

Ms. Evans: I would say I don't oppose I don't oppose that.

Mr. Mowery: What opportunity would that present for them?

Mr. Apicella: I think that would allow them to come back again to further research whether or not what they're saying is doable. It may not be doable. I'd hate to have them have to come back. If we deny it, they can't come back for a year. So help me make sure I've got this right. If they were to withdraw, can they come back in less than a year, if I reopen the public hearing?

Mr. Staranowicz: If you reopen the public hearing and the case is withdrawn, then yes, they could come back within a year, because they've withdrawn it and there's been no action on it. If it's been denied, as you said, then they would have to wait that one year.

Mr. Apicella: Sir, what are your thoughts?

Mr. Edgar: Two thoughts. I probably would be amenable to withdrawing the application if the alternative that I propose is a doable thing for me, then I wouldn't have to come back for, you know, another variance with, you know, three feet, or whatever it is. So if that's the case, then and I, you know, maybe the zoning

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folks could tell me whether, you know, because I will have to put in another zoning permit, I presume, with the new location.

Mr. Staranowicz: The other option would be to defer it.

Mr. Apicella: But how long can we defer?

Mr. Staranowicz: I believe state code says you have to act within 90 days.

Mr. Edgar: I guess the question I would have is if I move, if I the deferral, would only have you come back for another variance. What I'm suggesting is that if I make the new location fit the code, even though it would be over the gas line, okay, I'll live with that. I would withdraw the application.

Mr. Apicella: Yeah. I'm trying to give you the best of all worlds to explore further what you're suggesting to see if it's doable, and if it's doable and you've withdrawn, then you don't need to come back. However, if you go back and you get a consultant to look at your property, and you say, I want to put my movable storage shed over my gas line. Is that a good idea or a bad idea? And they tell you it's a bad idea. I want you to be able to come back. I don't know how this board would adjudicate it when you come back. I suspect there might be some of the same concerns, but at least you will have had a chance to explore it and let us know that.

Mr. Mowery: Mr. Chair, I think it would be unusual for us to reopen the public hearing.

Mr. Apicella: I got to tell you, I reopened public hearings on the Planning Commission, so it's probably not a big deal, and there's nobody here who's commented either way.

Mr. Mowery: It feels as if it might be allowing an opportunity to circumvent a denial that we would then maybe not afford that opportunity to other applicants that could cause an issue. However, I would suggest that a deferral in this case would automatically reopen the public hearing at a future date, which would still allow them that opportunity to withdraw if they chose to do so, 30-60-90 days from now, and that might be a more appropriate way to approach reopening the public hearing.

Mr. Apicella: So not bad points. If we deferred and brought this back up in 90 days, and the applicant doesn't show up, what happens? Again, assuming that you don't need to come back because you've already resolved the problem. How does...do we take up the case? Do we deny it? How would that work?

Mr. Staranowicz: You can still take up the case if the applicant doesn't show and then just vote on it however you feel fit. It wouldn't be in his best interest not to show up just because it would, you know, in that case, you know you're not, not here to present your findings for that that time period.

Mr. Apicella: So, this would be one of our cases in January?

Mr. Staranowicz: We would have to have it come back in January.

Mr. Apicella: Okay, just a quick poll. Are you okay with the deferral?

Mr. Mowery: Yeah, I'll just put a motion on the table that we defer for 90 days.

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Mr. Apicella: I just want to get a sense of the Commission first if you don't... the Board. Are you okay with the deferral? Kecia? Jeff? I know you really haven't...

Mr. Spinnanger: No, I'm familiar with, I mean, I'm familiar with. I think I want to apologize to all for being late and to the applicant. I guess the only question I would have is, you know, in the case of a deferral, you go back, you do the assessment, you find out about the issue with respect to, you know, the propane line. So if that is problematic, then it seems to me that there is a basis to at least consider a potential hardship, right? Because he is kind of caught between a rock and a hard place, right? So, like there are no other options, it seems to me that that might be something for us to chew on, if the applicant...

Mr. Apicella: You may have missed it, and I don't recall when you came in, but one of the options was potentially to put it in the front yard, which, again, is not, I understand, preferable to the applicant, but it is a potential option. So just kind of responding to what you said, that there are no other alternatives.

Mr. Spinnanger: Thank you.

Mr. Apicella: Mr. Underwood?

Mr. Underwood: Is the applicant able to withdraw during the deferral period? Would it have to come back up, or can... in between now and the next meeting?

Mr. Apicella: Well, I'm sure they could formally withdraw their...

Mr. Staranowicz: I believe they could. I mean, they would have to do it in writing and, you know, that they officially would withdraw their case from... so before it comes back up in January.

Mr. Apicella: Okay. Mr. Panjshiri?

Mr. Panjshiri: I'm open to it.

Mr. Apicella: Okay, would somebody like to make a motion to defer this for 90 days to the first meeting in January?

Ms. Evans: I make a motion to defer case V24-03/24155931 to January BZA board meeting.

Mr. Mowery: Seconded.

Mr. Apicella: Okay. There's been a motion to defer this matter to the January BZA meeting. It's been seconded, properly seconded. Any further comments, Mr... Ms. Evans?

Ms. Evans: No comments.

Mr. Apicella: Mr. Mowery?

Mr. Mowery: No.

Mr. Apicella: Anyone else? All right, I'll take this by voice vote. All those in favor of the deferral, say aye.

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All members: Aye.

Mr. Apicella: Opposed? Okay, that motion carries. Thank you.

Mrs. Edgar: What would happen... what would happen if they say that's just not a good idea to put that so close to where that propane line...

Mr. Apicella: That's why we've given you a deferral to come back and...

Mrs. Edgar: ... which would only lead, that's my point, the front lawn, to put it on when nobody else has that in the front lawn. And I believe that would devalue the property.

Mr. Apicella: Ma'am, I don't want to get into that dialog, because I don't know what the Board's view is of that. I mean, a couple of folks mentioned putting in the front yard, but I think we'd have to revisit the matter in January and kind of go from there, based on whatever information you all provide at that point in time.

Mr. Mowery: You've provided a strong argument, and if you incorporate that into a future argument, we'd be happy to hear it.

Mr. Apicella: Thank you. All right, I appreciate everybody's patience on this one. We'll move on to the next item on the agenda. Mr. Staranowicz?

UNFINISHED BUSINESS

NONE

ZONING ADMINISTRATOR'S REPORT

Mr. Staranowicz: Okay, the next item would be Unfinished Business, which we have none. Zoning Administrator Report would be next. As you all may have noticed, Ms. Brown is not with us tonight. She has tendered her resignation to Ms. Vanuch, and it was effective October 15th. She has moved to South Carolina, so she will not be joining us again. The Board is aware, obviously, Ms. Vanuch is aware of it, and they are taking action at this time to determine who, who would be next, her replacement. So, and that decision won't be made until or won't be made known until January probably, so when, when they have their business meeting the first, the first of January. I just spoke to Mr. Mowery prior to the meeting. His term expires at the end of this year and he wishes to be reappointed so I will send that information up to the county admin so that they can inform the Board of Supervisors that he wishes to be reappointed. I have officially decided to retire so my last day will be March 31 so as of April 1, I will be retired from here. And we were discussing earlier dates for next year. We always typically have a problem with the November date because of Thanksgiving. If we were to move that date forward two weeks, it'll put us on Veterans Day, which is a holiday. So, we were thinking of moving it out two weeks, which would be December 8. If that's, you know, we can, but that can be discussed further at our business meeting in February.

Mr. Mowery: That's a Sunday. Oh, we're talking about next year, December. Oh, I'm sorry.

Mr. Staranowicz: 2025.

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Mr. Mowery: You're a long-term planner. All right.

Mr. Apicella: So the next meeting we have, it's at this point?

Mr. Staranowicz: At this point, our next meeting will not be till January.

Mr. Apicella: So we can discuss it then or in February?

Mr. Staranowicz: So, we can discuss it further then. I just wanted to put it out there so you guys have time to think about it, before we bring it forward. That's all I have. So next up would be the adoption of the minutes.

Mr. Apicella: Before we do that, I do have a question. There were some cases that were being heard either by the Circuit Court or some higher-level courts. Do we know where those cases stand?

Mr. Staranowicz: Yeah, they're still in court. That's all. I know. There's still hanging out there.

Mr. Apicella: So, can we maybe get an update at our January meeting on those cases? When was the last hearing date? When is the next hearing date? What those cases are?

Mr. Staranowicz: I'll try and find out that information for you.

ADOPTION OF MINUTES

2. August 27, 2024 Board of Zoning Appeals Meeting Minutes_DRAFT

Mr. Apicella: Okay, great. All right, next item on the agenda is adoption of minutes. Is there a motion and second to approve the minutes from the August 27, 2024 meeting?

Ms. Evans: I make a motion...

Mr. Mowery: May I offer a correction real quick? On line 2189 the word city should actually be sitting, S-I-T-T- I-N-G, rather than the city. That's all.

Mr. Apicella: Anyone else have any corrections? All right, with that change... you'll accept that change, Ms. Evans?

Ms. Evans: Yes.

Mr. Apicella: And whoever made the second? All right, just take a quick voice vote on that. All in favor of approving the August 27, 2024 minutes say aye.

All members: Aye.

Mr. Apicella: Okay, that motion carries unanimously. Next item on the agenda is Other Business, alternate BZA members. Mr. Mowery, the floor is yours.

OTHER BUSINESS

3. Alternate BZA Member Discussion

Mr. Mowery: Thank you very much. I know we've went back and forth on this a couple times. I'm sure everybody's had the opportunity now to look at my email. I briefly addressed it last time, but just a very quick recap. I want us to be able to more clearly define the role of our alternate members when it comes to Board matters that are not specific to hearings, applications, appeals. So within our bylaws, it does specifically say that any alternate member may participate in all business of the Board, except for, as stated in paragraph two five, which is when they are hearing applications, appeals and special exceptions. And so we might be wondering what exactly business the Board would have that falls outside those parameters. It's not a lot. Most of what we do is exactly that, the special exceptions, the appeals and such. But there is some business that we attend to, and in those scenarios, I think that it's important that our alternate members, which includes myself, have that opportunity to weigh in on the matters of the Board. And so those scenarios are going to include when we discuss training, if we're adopting changes to our bylaws, if we are coming up with recommendations that we want to move forward to the county, all of those things we here on the BZA, gain experience in it, and I think we should all be able to weigh in on those matters. The bylaws specifically support this. Again, it says any alternate members can participate in all business of the Board. They do not have to be sitting in for regular member. And so I would ask that we as a Board move forward with the understanding that when the Board is conducting business, not specific to applications, appeals or special exceptions, alternate members are given the opportunity to participate fully.

Mr. Apicella: Okay, can I? Can I just give some context, because, again, I've been on here a long time. I was here when the Board decided to provide alternatives to the BZA, and the reason they did so back in 2010 was because at that point in time, the BZA had a hard time making a quorum, so they needed to get alternates so they could, in fact, continue to have meetings. And the resolution from the Board, in my opinion, makes clear that the sole purpose of alternates is to serve in the place of regular members when regular members can't participate, or when the regular members are absent. I was also involved in the bylaws update, and it's my fault for not adding a couple of words to the end of participate, which was to participate in discussions. That's what was intended, and that's how the Board has operated since the 2019 change. Mr. Gibbons and I think Mr. Grimes were alternates. Neither of those folks made motions or voted on any items. So, it was operationalized in the way that it was intended. Now this body, five years later, can choose to decide that it wants to grant alternates additional rights and prerogatives. That's kind of everybody's call. So, I'm going to kind of go down the line here. I'll start with you, Mr. Spinnanger, and kind of work our way back to your thoughts on Mr. Mowery's suggestion.

Mr. Spinnanger: Well, so one, thank you for that. I started my tenure as an alternate. I spent two years. So this is my sixth or seventh year. I spent the first few as an alternate. *Inaudible, microphone not on...* board members will note, you know, attendance is challenging... *inaudible, microphone not on.* I like to stay on board. I like to be involved, but sometimes I'm not able to attend. Frankly, I'm comforted to know that there are alternates who are generally here, and that we have historically done that. So I applaud the decision to adopt that. Having said that, it's an alternate, right? So for those few years that I was an alternate, it was an opportunity to sit and listen to really kind of... *inaudible...* work my way up the learning curve... *inaudible, microphone not on...* quasi-judicial function that we have here, at least for that opportunity. And I probably discussed it and participated in some of the discussions... *inaudible, microphone not on...* but I was happy to feel like... *inaudible, microphone not on.* And I'd like to, like, you know, anytime we consider something like that... *inaudible, microphone not on.*

Mr. Apicella: Mr. Underwood?

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Mr. Underwood: Just to ensure that I understand, the question that is being considered is whether or not an alternate can make a motion and/or vote? Is that accurate?

Mr. Apicella: Not on cases. On any matter that's not case related.

Mr. Underwood: So that's the question that we're looking to address. So not participation in discussion, just simply the ability to make a motion outside of cases.

Mr. Apicella: Right. I mean, again, the intended change back in 2019 was to allow alternate members to speak their minds and offer any value-added thoughts about the matter in front of us, the administrative matters in front of us, but not to make motions or to vote on a matter at all. So that's kind of where we were at that point but again, it's five years later, and so that's why we're....

Mr. Underwood: Was there a reason for not wanting them to be able to make a motion or vote at the time that it was written?

Mr. Apicella: Well, because it's a seven-member board. That's how, and any, in my opinion, at that time and now is that giving alternates more rights and privileges with changes from a seven-member board to a nine member board. And we're not a nine-member board. We're a seven-member board. Notwithstanding, I mean, I understand where Mr. Mowry is coming from. I was an alternate for five years. The first five years that we had alternates, I wasn't allowed to say anything, and I sat for a long meeting, sometimes until 10 or 11 o'clock at night, took my stuff and went home, and that was it. And again, in 2019 we wanted to at least get some value-added discussion from alternates who had been sitting here all this time on the administrative matters. So, I think it's a judgment call. You know, again, my personal opinion, it changes the nature of the board if we give alternates more the ability to make motions and vote.

Mr. Underwood: Okay, so the 2019 change was intended to give them a voice, but not a vote.

Mr. Apicella: Right.

Mr. Spinnanger: Okay, yeah, so I, again, I appreciate that there was 2019 but I was an alternate before that, and I definitely spoke, right? So, I mean, like, so the opportunity to engage in conversation, I don't think, was ever really there, particularly when the when the forum turns into a scenario like this. I mean, active voices are helpful, right? So that part has at least the less I was watching it before we ever change the rule, and then we have the reason we change so, but like that part is, I think it's helpful, right? Fresh perspective. Generally speaking, alternates are, not all time. There's been some recent examples where we've had alternates who have been, you know, on various boards, who were supervisors and other things and have tremendous experience. But speaking for myself, you know, I was really even a little bit new... *inaudible, microphone not on...* and so I welcome that opportunity, but also to the opportunity to be able to be engaging, right? So, I apologize I missed the last meeting. I would have liked to say goodbye to Dana, who would offer advice and counsel and conversation, when sometimes, even if you didn't ask for it. *Inaudible, microphone not on...* all, you know... *inaudible...* I will miss her tremendously. But I think that that part is fine again, for me, I just like to understand, right? So if you raise an idea, you know, an alternate, raise an idea, and the board members choose to take that idea. There's nothing that prevents that from happening, right? But if they don't, I'm not sure why there would need to be, in terms of, like, a forcing function, which is what it would be if we extended the ability to make motions, you know, in this kind of a scenario. So I don't know what that solves. If you've asked a question of another board, Hey, I have this idea, and the board chose not to pick it up, that's kind of a decision unto itself. Being

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able to formalize that in some way. Again, I don't see what problem that solves, right? I've had the, I think, line up with Steven here. It tends to expand the size of the board, right? We serve at the, you know, we support other functions in the here in Stafford, in the government, across the in between the judicial side and the legislative body, and somehow they're able to exist. You know, I believe there's seven members on the Board of Supervisors. So, I mean, so I that's, again, I'm just proving my point that I talk a lot, and I would welcome that in this discussion. But I'm not sure why there needs to be this opportunity to create motions and such.

Mr. Mowery: Yeah, I think maybe I should define this a little better, because it seems like we're getting hung up on the on the motion-making part of it. And that's actually not the primary purpose of what I was trying to bring up. It was actually the discussion point and this arose out of our meeting that we had when we were going through the complex issue of nominating our new officers and discussing whether we were going to suspend the bylaws or not. And my participation in that discussion felt like it was being challenged based on my position as an alternate member. So, if we are simply comfortable with defining the role of alternate members as discussion and limiting their ability to make motions and vote, I'm happy with that middle ground. There's no necessity to for an alternate member to make a motion. I, you know, when I wrote up my email to everybody, I only wanted to make the point that voting, per Roberts Rules of voter order is specific to voting, and all other actions are separate from that, that includes motions and such so. But if our common ground on the board is that we're comfortable with alternate members being freely able to participate in discussions outside of those special exceptions and applications, but on the other matters of the board, I'm comfortable with that as well. I do think at some point we do need an update to the bylaws, though, and I know that we've done it in the past, but right now, I see some glaring loopholes that people could cause chaos with that I think we should close up, and one of those can be more clearly defining this role that alternate members can fully participate in discussion as intended, but are limited in their ability to make motions and votes. Going forward if we just operated under that understanding until we make those amendments I have no concerns about that.

Mr. Apicella: Everybody good with that? Ms. Evans.

Ms. Evans: Yeah, because I was going to say I'm a little bit confused because I'm like, unless I'm misreading. two five and two six kind of contradicts itself, but it clearly states here, like, if the alternate is not substituting for a regular member of board, then the alternate cannot participate in the proceeding in any way. So, the key word is ANYWAY for that. But then in two six, it says the key word is, except as stated in paragraph two five, any alternate member MAY participate. So, it's not a shall. It's not, it's none of that. So, I mean, I'm kind of leaning with you, Steven, like, like, if we did do this, then that means we are altering the board. It's seven members. And so, you know, we have to look at that. I understand, like, alternates. I mean, they're there for any reason, that's why they're alternates. You know.

Mr. Mowery: I think when two five talks about the alternate member cannot participate in the proceedings, I read the key word there is proceedings. It is specifically talking about those occasions in which the Board is considering the application, appeal or special exception. And so the areas that I am wishing to define falls outside of those occasions, not during proceedings, but rather when we as a board, much like we are doing right now, are discussing topics that fall outside those parameters, and that doesn't happen very often. Again, it's really when we're discussing doing training, when we're discussing scheduling, when we're discussing any recommendations we might make to the bylaws, those types of things.

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Ms. Evans: Right and this is why I said in the beginning, two six and two five, it kind of contradicts itself, because it does say, you know, except as stated in paragraph two five, any alternate member MAY participate. It's not a shall.

Mr. Apicella: Again, it was the “may participate” in discussions. And that's the two words, three words that should have been added at the time it was updated but weren't. That was... I'm the one who made that change. Blame me for missing those couple of words, but we were intending on doing what you're asking for now.

Mr. Mowery: Okay.

Mr. Apicella: Mr. Blaisdell.

Mr. Blaisdell: I kind of agree with you, Steven about its a seven member board and I kind of think is should stay that way too, but also see where Mr. Mowery is kind of picking up his end of it too, because I read through this thing multiple times, and I kind of read it like he read it, as they may be able to participate. Now that's not exactly what I agree with, but that's what it says. So, I was just going off of my interpretation of what it said. But I think alternate should stay alternate until they're needed to fill in for somebody.

Mr. Apicella: So, so for now, unless and until we update the bylaws, can everybody agree that the missing two words or three words are may participate in discussions? Everybody okay with that? All right, so the matter is closed for now, Mr. Mowry.

Mr. Mowery: I'm happy with that.

Mr. Apicella: Okay, great.

Mr. Mowery: Thanks for your patience everybody.

Mr. Apicella: Yeah, thank you. All right, with no further business before the Board of zoning appeals, do I hear a motion to adjourn?

ADJOURNMENT

Ms. Evans: Motion to adjourn

Mr. Mowery: Second.

Mr. Apicella: All in favor say aye.

All members: Aye.

Mr. Apicella: All right. Thank you, everybody. Motion carries.

At 8:21 PM, Chairman Apicella adjourned the October 22, 2024, Stafford County Board of Zoning Appeals meeting.