

STAFFORD COUNTY BOARD OF ZONING APPEALS
February 25, 2025

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) Tuesday, February 25, 2025, was called to order with the determination of a quorum at 7:01 PM by Chairman Steven Apicella in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Steven Apicella, Abraham Panjshiri, Everet Blaisdell, Steven Gorski, Tylor Underwood, Nathan Mowery (Alternate), Tracy Petty (Alternate)

MEMBERS ABSENT: Jeffrey Spinnanger

STAFF PRESENT: Juan Bernal, 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. Will 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: Steven Gorski.

Mr. Gorski: Here.

Mr. Staranowicz: Abraham Panjshiri.

Mr. Panjshiri: Here.

Mr. Staranowicz: Jeffrey Spinninger. Tylor Underwood.

Mr. Underwood: Here.

Mr. Staranowicz: At this time, we are two regular members short. We can add our alternates, Nathan Mowery.

Mr. Mowery: Here.

Mr. Staranowicz: Tracy Petty.

Ms. Petty: Here.

Mr. Staranowicz: Mr. Chairman, you have a quorum.

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

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Mr. Staranowicz: No, there's not.

Mr. Apicella: 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?

Mr. Underwood: Mr. Chairman?

Mr. Apicella: Yes, Mr. Underwood.

Mr. Underwood: Yes, I'd like to make a disclosure in relation to item number 2 on the agenda, V25-01. I served as a drainfield consultant for this property and prepared the drainfield design. That work is complete and has no relation to the request before the board this evening. I simply wanted to disclose that, but I do not see it as a conflict.

Mr. Apicella: Thank you, Mr. Underwood. 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 requests for variance from the Stafford Zoning Ordinance when a little enforcement of the ordinance would 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 Administrator. 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 to take votes is four members. Let the record reflect that we do have a quorum tonight, with a total of seven voting members present. Regular members present and voting tonight are Steven Apicella, Everet Blaisdell, Steven Gorski, Abraham Panjshiri, and Tylor Underwood. Alternate members standing in for a regular member and voting tonight are Nathan Mowery and Tracy Petty. County staff is represented tonight by James Staranowicz and Juan Bernal. Today's public hearings will be conducted in the following order. The Chair will ask the BZA Secretary, although tonight I'll ask the Vice Chairman, to read the cases. 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 formally 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 any further questions by BZA members. After the applicant's final response, the Chair shall close the public hearing with no further public comments allowed, 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. After discussion of the motion, the Chair will call for a vote of the board. In order for any motion to be approved, at least four members of the board must vote in the affirmative to the motion. The procedure for addressing the BZA and submitting material to the board are as follows: after coming to the podium, members of the public shall provide their name and address so the board can maintain an accurate record of the proceeding. We also ask that you sign the meeting register at the back of the room. As this is a quasi-judicial body under the auspices of the County Circuit Court, we require all applicants, speakers, presenters, and audience members to act with a level of decorum and respect appropriate to a courtroom setting. If there are any disturbances, the Chair may call for a temporary recess. Please address your views to the board as a whole and not to the applicant or other members of the public. In order to allow the board time for appropriate review, the applicant or the applicant's

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representative is required to submit relevant material to the Department of Planning and Zoning at least 10 business days prior to the hearing, to be included in the staff report. The board may accept and consider additional relevant material from the applicant or the applicant's representative prior to or during the hearing. However, large amounts of additional material may require a deferral at the board's discretion on behalf of the applicant to allow the board time to consider that additional material. 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 today's applicants. All applicants are hereby reminded that there are seven voting members present, and any application requires a minimum of at least four affirmative votes for approval. If you decide to do so, you have a right to defer your public, this 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 be aware that the BZA will not hear any denied application for a special exception or a variance which is substantially the same request, as determined by the board, as is currently under consideration for at least one year from the date of its previous decision. Any persons who do not agree with the decision of this Stafford Board of Zoning Appeals shall have 30 days to petition the Stafford County Circuit Court to review the BZA's decision. The Stafford BZA requires that any person who wishes to speak before this board shall be administered an oath. Therefore, anyone who wishes to speak tonight, please stand now, if possible, raise your right hand, and agree in 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.

Mr. Apicella: Okay, thank you. You may be seated. Okay, we're going to move on to the first case, which is a request for a special exception. Has staff determined the application and associated materials are complete?

Mr. Staranowicz: Yes, the application is complete.

Mr. Apicella: Thank you. I'll now ask the Vice Chairman to read the first case.

APPLICATIONS AND APPEALS

1. SE25-02/25156154; Hardworkers Landscaping, LLC – A request for a special exception pursuant to Stafford County Code Sec. 28-351, "Grant and revocation of special exceptions," to allow a Home Business II on Tax Map Parcel No. 46G-7-183 (Property). The Property is zoned R-1, Suburban Residential, and is located at 16 Yucca Drive, within the Falmouth Election District.

Mr. Panjshiri: SE25-02/25156154; Hardworkers Landscaping, LLC – A request for a special exception pursuant to Stafford County Code Sec. 28-351, "Grant and revocation of special exceptions" and Sec. 28-35, "Table of uses and standards," to allow a Home Business II on Tax Map Parcel No. 46G-7-183 (Property). The Property is zoned R-1, Suburban Residential, and is located at 16 Yucca Drive, within the Falmouth Election District. The applicant is requesting to operate a landscape business as a Home Business II and to allow the parking of two vehicles, associated with the business, on the property. The applicant agrees to abide by the Home Business II regulations outlined in the Stafford County Zoning Ordinance Sec. 28-25 "Definitions":

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Home business II. An occupation, profession, business, trade, e-commerce, or handicraft carried on by the occupants of a single-family dwelling as an accessory use, which exceeds the definition and standards for home business I, and meets the following standards:

- (1) No more than two (2) employees shall be permitted to work on the premises at any given time other than the family members who reside in the principal residence.
- (2) Customer visits may occur:
 - a. By appointment only and shall be scheduled in a manner which does not permit customers to wait for their appointment;
 - b. Up to six (6) days per week between the hours of 8:00 a.m. to 8:00 p.m. EST Monday through Friday, 9:00 a.m. to 8:00 p.m. EST Saturday, and 10:00 a.m. to 5:00 p.m. EST Sunday; and
 - c. No more than ten (10) total customer visits are permitted per day.
For the purposes of this standard, one customer visit is defined as the arrival at the home business II of a motor vehicle containing up to six (6) passengers.
- (3) The home business II must provide sufficient off-street parking for customers' vehicles in addition to the minimum requirements for the principle residential use.
- (4) The home business II may permit the parking of two (2) vehicles associated with the home business II, each individually less than thirteen thousand (13,000) pounds and parked off-street. Fleet parking shall not be permitted.
- (5) The home business II shall not occupy an area greater than twenty-five (25) percent of the finished floor area of the principal residence. The home business II may be located in an accessory building or structure. Any accessory building or structure associated with the home business II shall not be located within front yard setbacks, and shall be set back at least thirty (30) feet from all property lines.
- (6) Storage of merchandise, equipment, or materials associated with the home business II is permitted and shall be located in a primary residence or enclosed accessory building or structure. Storage areas outside of the primary residence, but within an enclosed accessory building or structure, shall not comprise more than fifteen (15) percent of the total area of the property on which the home business II is located.
- (7) The home business II shall not engage in retail or wholesale sale of goods or merchandise to customers directly on the premises. However, direct sales equal to the number of customer visits allowed per day shall not be considered retail sales.
- (8) The home business II shall comply with all federal, state, and local laws and regulations.

The property is located at 16 Yucca Drive, TM 46G-7-183, and is zoned R-1, Suburban Residential, consisting of approximately 0.6074 acres. The current owners purchased the property on March 1, 2019. The property consists of a single-family dwelling which was constructed in 1995. The property is located at the end of a cul-de-sac on Yucca Drive, approximately 280 feet southeast of the intersection with Myrtle Road. The property is partially cleared for the homesite and is wooded along both sides and the rear of the property. There are no wetlands, floodplain, or Critical Resource Protection Areas (CRPA) that would limit development or use of the property.

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Mr. Apicella: Thank you, Mr. Panjshiri. Are there any questions for staff? I'll start with Mr. Blaisdell.

Mr. Blaisdell: I've just got one question. Just wanted a little clarity on the vehicle part of the conditions. It says that you're allowed to park two vehicles, and they both must be under 13,000 pounds of gross GBW. Is that correct?

Mr. Staranowicz: According to the definition, it just says under 13,000 pounds. There's no, whether it's gross vehicle weight or empty weight, it doesn't specify.

Mr. Blaisdell: Okay, so that can be empty, loaded. I mean, there's no, no standard of how it's, how it's tagged with like DMV or the state.

Mr. Staranowicz: Right, if you're looking at the definition for commercial vehicle, according to the code, a commercial vehicle is defined as any truck... truck, tractor, trailer, semi-trailer, garbage truck, dump truck, cement truck, or similar vehicle or equipment with any gross weight. Or any vehicle with a gross weight of more than 10,500 pounds, which is not owned, leased, or operated by the occupant of the property at which it is parked.

Mr. Blaisdell: So as far as the 13,000 pounds, how would you go about judging that?

Mr. Staranowicz: That's why I asked for the the registrations when we... since the registrations class... list the weights on there.

Mr. Blaisdell: Right. That's what I was kind of getting back to you about the DMV, how they would view it.

Mr. Staranowicz: That was the request, why the request for the registrations were made. And it was also, he also provided the the stickers that are attached to the vehicles themselves by the manufacturer.

Mr. Blaisdell: Okay, so a truck that has a GBW of 19,500 wouldn't apply to this permit, wouldn't qualify?

Mr. Staranowicz: At 19,500?

Mr. Blaisdell: Yes.

Mr. Staranowicz: That would be, to me that would be over the weight limit.

Mr. Blaisdell: Okay, that's all I have for questions. Thank you.

Mr. Apicella: Mr. Gorski?

Mr. Gorski: No.

Mr. Apicella: Mr. Panjshiri?

Mr. Panjshiri: No.

Mr. Apicella: Mr. Underwood?

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Mr. Underwood: Yes. Are... have there been any complaints related to this property that you are aware of?

Mr. Staranowicz: This was brought up due to a complaint.

Mr. Underwood: It was. Thank you.

Mr. Apicella: Mr. Mowery?

Mr. Mowery: No questions.

Mr. Apicella: Ms. Petty?

Ms. Petty: Just one question. This may become more evident during the presentation, but if these are personally owned vehicles, do they require a special exception?

Mr. Staranowicz: They're... they would be considered commercial vehicles for a business, so the home business itself is what requires a special exception, not necessarily the vehicle itself.

Ms. Petty: Okay, not the trucks for the business.

Mr. Staranowicz: Right.

Ms. Petty: Okay, thank you.

Mr. Apicella: Okay, I just have a couple questions. So as I read the staff report, the primary purpose of the special exception, notwithstanding what you said, but in order for them to get the two vehicles, which is what I think they're ultimately trying to achieve, is to get the home business II.

Mr. Staranowicz: Yes.

Mr. Apicella: And with that home business approval, if that takes place, they'd also be able to conduct office related activities in their home.

Mr. Staranowicz: Yes, they would also have the office there.

Mr. Apicella: Okay. Just so we have it in the record, and I apologize for making you read these, but there may have been some concerns. And I think some of these conditions that were proposed, aside from the ones that normally apply to home business II, if you could read out the other proposed conditions. Again, not the ones that apply to all home business II.

Mr. Staranowicz: Okay, yeah. I just gotta make sure I'm looking at the right ones here. Okay, so condition 1 was related to the home business II. Condition 2 states that there should be no more than two vehicles associated with the business parked on the property. Both vehicles shall be screened from view from Yucca Drive with a board-on-board fence no more than six feet, or eight feet in height, which is the maximum height of a fence allowed in the R-1 zoning district. The applicant shall accommodate any... shall accommodate an adequate number of parking spaces consistent with the County Code. All vehicle parking shall be, shall conform to the following standards: all vehicles shall be parked in designated parking area; no vehicle shall be parked along Yucca Drive; and all required travel lanes shall

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remain unobstructed. The applicant shall construct an entrance in compliance with the Virginia Department of Transportation standards to ensure safety and comply with site distances. The applicant must comply with all federal, state and local codes. The approval of the special exception shall expire when the applicant/owner vacates the property and is non-transferable. This approval may be revoked for willful noncompliance of the conditions imposed by the Board of Zoning Appeals.

Mr. Apicella: Thank you. And again, for further clarity, they can certainly park their own personal vehicles, but they can only park two commercial vehicles again on...

Mr. Staranowicz: They can only park two vehicles associated with the business on the property.

Mr. Apicella: And they cannot store any materials outside.

Mr. Staranowicz: Correct.

Mr. Apicella: Okay, thank you. That's, that's it for me.

Mr. Gorski: Mr. Chairman?

Mr. Apicella: Yes, please go ahead Mr. Gorski.

Mr. Gorski: So an additional question, I'm having a hard time getting my my head around this. So if there were, this is a sole proprietor, a Schedule C business, right, that we're talking about here.

Mr. Staranowicz: Right.

Mr. Gorski: So say that two people work for a roof contractor, and they both, a commercial business and they were both just employees of. If two people lived, worked at that business and parked their trucks and a resident in their home on their driveway, they would be required to have a this sort of exception? I'm having a hard time understanding what this is.

Mr. Staranowicz: The fact that the applicant is asking to park the two vehicles associated with the business on the property is requiring him to have a special exception. If the scenario... if they're not conducting... if it's a person that works for a contractor, is electrical contractor, or has his own personal vehicle that he's driving to and from work, he can park that vehicle there as long as it's not considered a commercial vehicle by the definition in the code, as long as it's under that that weight limit.

Mr. Gorski: Okay. All right, thank you.

Mr. Apicella: Any other questions for staff? All right, thank you. Would the applicant or their representative like to come forward to make a presentation?

Mr. Garcia: Hi. My name is J. Dolores Garcia. And I was just listening to all of you, you know, the questions, and I probably the one to answer the questions, and some of you questions were like the ones I made before. You know, if I own the trucks and I own the house, why cannot park it on my own driveway? I am the only one that have the privilege with plenty parking spot in Hickory Ridge. All the rest of the houses, they barely have parking spot. They park literally in the road. I do have plenty space, so it's not gonna basically be a problem for any of the neighbors, you know. But if it's at least like half my neighbors opposing, then I drop the permit, you know. So first of all, the reason why I need the

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special exception, so I can park my trucks in there. I do not want to buy two more smaller trucks. My son, he lives with me, and he drives one of the trucks. He's the only driver I have that goes home. I do not have any employees that come to my house. I do not buy or sell anything from my house. I do provide lawn care business, which is like cutting your grass, cleaning your leaves, trimming, pruning, so I don't have the necessity for any customers to come to my house for anything. Everybody calls me. I go to their property, we make an agreement; if they agree on price, we do the work. So basically, I don't even have an office in my house, you know. It's a small business that I start, and it's going well. If I had the resource to buy another property or to rent somewhere else, I would have done it before, you know. I don't need to cause all this trouble, and I don't mean to bother any of my neighbors, you know. I do offer an apology if it's a neighbor that got hurt for my actions. So basically, that's all I'm trying to do. My son, he drives one of my trucks. He's 20 years old. He's currently serving on the United States Marines, and he's going to be deployed to Japan in October. So for nine months, I'm only going to be able to use one truck. So if I'm not allowed to leave the truck stored in my house, I have to pay rent somewhere else. And I'm a small business, so I don't make a lot of money. I need to save anywhere I can. So, if you guys give me the permit, I will use it for at least like three years until I move from Yucca Drive. I do not have the resources right now to do right away. That's why I'm asking for the permit. So since I took the property six years ago, the conditions were very bad. I took two truckloads of trash from the property. Now I got the nicest house in the neighborhood. It's the cleanest, the greenest grass in the neighborhood. So I do not know why some neighbors think that my business will take value away from their properties. But actually, when I moved six years ago, now the properties have value of 100%. I don't know if it's because of me, or whatever it is, but it's true. So, I'm trying to be as honest as I can with all of you, and I know you guys make some questions, especially with the 13,000 pounds. Whether it's loaded or empty, any car could be 13,000 pounds loaded. Doesn't mean it's legal to drive on the road, you know. So my trucks, I submit the weight that the manufacturer tells when it's empty, and also the weight when it's loaded. So probably a truck that's 13,000 pounds loaded is not going to be any good for my business. Probably would be too small, you know, a half a ton truck could be 13,000 pounds. It's not legal to drive around with 13,000 pounds, but you can put the weight, you know. So that's why I got those trucks that they have basically the safety inspections and everything to run with 19,500 pounds loaded. All of my, basically all of my business, we pick up materials, go to the customer property, drop the materials, pick up debris, trash, whatever, take it to landfill. So I also submit the, the receipt from Stafford that shows how much it weighs loaded and how much it weighs empty. I did also submit pictures of what kind of truck. And basically, my trucks doesn't fall on the definition of what they say, commercial; trash trucks, tractor trailers, neither of that. I don't know where they fall. They are smaller, you know, they are smaller than a trash truck or a tractor trailer. They are equipped with what they call a landscape body. So it's large because it's made to hold volume, you know, capacity, not weight. So as you can see over here, I got plenty of space. I can fit probably 6, 7, 8 more trucks in there, but I only can afford two of them, you know. So, basically, that's all I am asking from the county. And if you guys got any questions, I'll do my best to answer. Thank you.

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

Mr. Blaisdell: Yeah, just a few quick ones here. I see where you're coming from, about your weight thing. And I can, I can understand that. But it kind of goes off of what your registration says, and what's in the door plate is 19,500 it would be your, that's what your trucks rated at. And the conditions here are 13,000 and under. So it does kind of, I see that your trucks aren't any bigger than some similar trucks. It's just how they're weighted. But it kind of is what it is, as far as on the legality side of it. So it is overall weight. I don't really know where else to go with that, with that topic. Another question I had is, as far as like support equipment, how many trailers and like leaf blower or leaf vacs and things do you store at your property? I know if you have a landscaping company, and you cut grass, you gotta

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have a trailer to haul your lawn mower and a trailer to haul your landscaping tools. I mean, do you have one trailer or two trailers or five trailers, or do you store them at your house? Do you store them somewhere else?

Mr. Garcia: We do have a few trailers. I do not store at my home. We do have, like, blowers, you know, leaf vacuums, all that kind of... he saw it on a video how we work. None of the equipment that he saw is stored at the house.

Mr. Blaisdell: Okay. So you got another lot somewhere else that you store...

Mr. Garcia: Renting a small place, but it's full basically.

Mr. Blaisdell: Yeah.

Mr. Garcia: And the reason why, basically, I don't have a personal car for myself, neither for my son that works with me. So if you guys deny the permit, I have to buy two additional cars for him to ride to the place where we leave the trucks or myself, so it doesn't eliminate any traffic or anything, you know.

Mr. Blaisdell: Right.

Mr. Garcia: And we only leave early in the morning, come back until five, six, especially in the summer, you know?

Mr. Blaisdell: Yeah. So you keep all your other stuff at another location; you park your trucks there.

Mr. Garcia: Somewhere else, yes.

Mr. Blaisdell: Okay, good enough. That's all I have for you.

Mr. Apicella: Can I, can I get clarification? I'm sorry. The, are you saying the trucks weigh over 13 pounds, or they have the capacity to be over 13 pounds if they're fully loaded?

Mr. Blaisdell: That's what the manufacturers rating is, it's 19,500.

Mr. Apicella: But what, what does that mean?

Mr. Blaisdell: That means that's the max amount that truck can carry.

Mr. Apicella: Right, but that doesn't mean that's how much that truck weighs.

Mr. Blaisdell: Fully loaded, yes.

Mr. Apicella: Right. I understand, I understand what you're saying, and I'm not trying to be...

Mr. Blaisdell: I mean, empty weight is just empty weight. It doesn't really hold any substance with...

Mr. Garcia: Empty weight is less than 13,000 pounds.

Mr. Blaisdell: Yeah, I mean, the truck's always based off of what its max is.

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Mr. Apicella: I hear what you're saying. I hate to say it, and I'm going to fess up that I was one of the people who worked on this when we were looking at creating home business definitions. That never came up, the actual weight of the truck versus capacity of the truck when we were looking at this. So I guess it's kind of a judgment call at this point in time. I guess my sense would be 13 pounds is 13 pounds. If the truck, the base truck, weighed 10,000 pounds, and they put another 3,000 pounds worth of stuff on the truck, it would be the 13 pound... 13,000 pounds or under.

Mr. Blaisdell: Yeah.

Mr. Apicella: But if it, if they add another pound, technically it's over.

Mr. Blaisdell: Yeah. I understand that. I don't think that's how they... *inaudible, multiple people talking*.

Mr. Apicella: No, I understand. I'm saying it was probably a fault in the way this was crafted, because it never came up.

Mr. Blaisdell: I mean, it's not a deal breaker for me, but I'm just saying that the trucks are over, and there would have to be something extra in there to allow that.

Mr. Apicella: I'm going to ask staff what your perspective is, because again, I hear what Mr. Blaisdell is saying. I don't think the intent was necessarily based on what the capacity is, but what the actual truck weighed at any given time with whatever's on the truck, including...

Mr. Blaisdell: He could have a semi road tractor if it was specced right and it didn't have a trailer, you could get that to like 13,000...

Mr. Apicella: Perhaps.

Mr. Blaisdell: ... I mean, it's like useless.

Mr. Apicella: I gotcha, right. I'm just trying to find a way to keep this within the boundaries of what's allowable so.

Mr. Blaisdell: Just pointing it out there.

Mr. Apicella: Yeah, and maybe this is something we need to go back to the Board and ask them to further clarify how to, how to look at the weight issue.

Mr. Blaisdell: Or increase the weight in general.

Mr. Apicella: Yeah.

Mr. Blaisdell: It would allow more things...

Mr. Apicella: Well, I mean, just to revisit that piece of the, of the, of the ordinance definition. Did you have anything else, Mr. Blaisdell?

Mr. Blaisdell: No.

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Mr. Apicella: Okay. Mr. Gorski.

Mr. Gorski: No.

Mr. Apicella: Mr. Panjshiri.

Mr. Panjshiri: No.

Mr. Apicella: Mr. Underwood.

Mr. Underwood: No.

Mr. Apicella: Mr. Mowery.

Mr. Mowery: Yes. You have just the two trucks; those are the only two trucks that your business owns?

Mr. Garcia: No, I do have a couple more.

Mr. Mowery: Do they, are they ever at your property?

Mr. Garcia: No.

Mr. Mowery: Okay. So these are the only two that would actually be at your property?

Mr. Garcia: Yes.

Mr. Mowery: And how many times per day do you think they come and go from the property?

Mr. Garcia: Ninety-nine percent, it's only two times. Morning out and come in in the evening, afternoon.

Mr. Mowery: Okay. And then the conditions for the special exception require that the vehicles be screened by a fence no larger than eight feet, board-on-board. It doesn't look like that exists already. Do you have a plan for that?

Mr. Garcia: No. However, if I build the fence, it still is not going to screen the trucks. The trucks, you can tell they higher than eight feet.

Mr. Mowery: Yes, I noticed that.

Mr. Garcia: And also, I'm like downhill, so all the rest of my neighbors, they're still gonna see so it does not serve any purpose, because being that they are higher and I'm lower, it doesn't change anything, you know, to screen it.

Mr. Mowery: Okay.

Mr. Garcia: I mean, I would, you know, if it, to comply.

Mr. Mowery: Okay. Thank you. No other questions.

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Mr. Apicella: Ms. Petty.

Ms. Petty: Yes, just a couple. How long has Hardworkers been in business?

Mr. Garcia: Since 2015.

Ms. Petty: 2015? And, okay, you mentioned that you probably just go, come and go twice a day. So these are basically the trucks you're using to go to work.

Mr. Garcia: Yes.

Ms. Petty: But you also use them at work.

Mr. Garcia: Mm-hmm.

Ms. Petty: And then the business has other vehicles as well.

Mr. Garcia: Yes.

Ms. Petty: All right, so how early in the morning are you leaving?

Mr. Garcia: We usually leave at seven all the time.

Ms. Petty: Okay, and are the trucks noisier than regular vehicles?

Mr. Garcia: No, they are completely stock with manufacturers. Whatever noise they made, that's how they make it. I have never changed anything – I'm sorry – to make them louder or whatever, and that's how they came from factory.

Ms. Petty: Okay. And as far as the weight, when you bring them to your house, are they loaded?

Mr. Garcia: Most of the time they come empty. I don't like to leave my trucks loaded. It's not good for them, you know. So we usually dispose materials and whatever trash usually the same day. It's rare that they stay loaded.

Ms. Petty: Okay, so you take them out empty, you use them during the day, and you bring them back empty.

Mr. Garcia: Yep and that's what I was gonna say, if the weight should be under 13,000 pounds, I'll drive it empty every day, you know, back and forward.

Ms. Petty: Thank you. That's all I had.

Mr. Apicella: Okay, last call for questions of the applicant. All right, thank you, sir. I'll now open...you can sit down. I'll give you another chance to come up after public comments. I'll now open the public hearing on this matter. If there any members of the public who wish to speak in support of the application please come forward now. Okay, if there's anyone who speak in opposition, please come forward.

Mr. Robinson: I own a property. I own a property...

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Mr. Apicella: So just you need to state your name and address and give the mic a chance to..

Mr. Robinson: It's David Robinson, right around the corner from the gentleman's property. I'm not sure if anybody on the board has been over to where this is, but the cul de sac there is very small. There are no sidewalks in that community. There's just the road, there's a gutter, and then you're in your yard. I didn't hear anything about a driveway being put in. If there is one being put in in the parking area, is it going to be gravel? Is it going to be done in asphalt? Everything in the neighborhood now, every single house has, from the road cross the gutter to the driveway, is all done in asphalt, every single house in the neighborhood. So I didn't hear anything about approving the roadway. Again, this is 100% residential neighborhood. I went over there. I have a three-quarter ton, which is just a regular size pickup truck. It's a quad cab, but it's not some commercial vehicle. You see them on the road all the time. I just went over there to look at it. Haven't been over there in a while. I go in, and if there's any cars parked on the road, they are in the small gravel area between the road and the gutter, which is probably only about like this wide. So, if anybody parks in the road, they are sticking out probably about a third of the width of their vehicle into the road. This isn't a cul de sac where, like a bus can go in and turn around. There is a school bus stop there, but it doesn't go down into the cul de sac. It's up at the corner because my kids used to get picked up there years ago. It's just a very tight area. I don't know if anybody has seen it has appreciation for the size of it, or if you have any charts or maps that would show that. I just don't think this is appropriate for a residential neighborhood. Nothing against a gentleman. God bless him for being a hard worker and trying to get ahead but to make a parking area for commercial vehicles in the back of a residential home in 100% residential community, this seems to be going against the nature of the of all the properties there. You have any questions for me?

Mr. Apicella: Any questions? Thank you, sir. Is there anybody else who would like to come forward and speak in opposition? Sir, would you like to come forward and respond to the comments that were just made.

Mr. Garcia: About his comments, we don't even drive on Myrtle Drive. I only use Cherry Loral and Yucca. Yes, the space is tight on Yucca because the neighbors, they don't have a driveway, or they have too many cars and don't have the space. So that's why they park on the off street and on the cul de sac is big enough. The trash company, which is a large truck, comes, what, 2-3-4 times a week, and they manage to go around all the time, five in the morning. So my trucks is a lot smaller than that one. They easily come in and out without any problem. So I don't know what would be his concern about the space, and I do have a paved driveway, which was approved by VDOT I guess years, I don't know when, when the house was put in, you know, I'm sure they had a driveway to get into the house back in 95. So, that's all I can say.

Mr. Apicella: Thank you, sir. Any further questions for the applicant or for staff? Yes, Ma'am,

Ms. Petty: Sir. Have you had these vehicles parked there already?

Mr. Garcia: Yes, for six years.

Ms. Petty: For six years, have you had any complaints?

Mr. Garcia: Well actually, I had only one. Back in 21 I submit the application for home business one, because back then I used to have only one truck. But the county denied the application because they say I had too many commercial, trucks, which I only had one. I only own one. I don't know where they got

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the rest, but they say I had too many. And then they deny it. The second one, I bought it back in 2022. That's when I had more than one so since then, they've been parking my driveway.

Ms. Petty: Okay? And you only park in the driveway, not on the on the cul de sac?

Mr. Garcia: No, I do have plenty space within my property. Like I say, I'm one of the very few houses that has plenty of space to accommodate my trucks within my property.

Ms. Petty: Do you ever have trouble getting the truck in and out of the neighborhood because of cars parked on the side?

Mr. Garcia: No, over a couple decades of driving.

Ms. Petty: Okay, thank you.

Mr. Apicella: Anyone else? All right. Thank you, sir. I'll now close the public hearing and bring this matter back to the Board for discussion and deliberation. Thoughts, motions?

Mr. Mowery: Can I ask a clarifying question? Maybe this is for staff, maybe other people know, and I think we were trying to drive at it before but what ordinance are they violating without the special exception? Why are these vehicles not authorized there without it?

Mr. Staranowicz: The R-1 zoning district does not allow for the parking of commercial vehicles, and then, since they do not have a permit to operate a home business, they're violating so it'd be actually Chapter 28-35, Table 3.1.

Mr. Mowery: Okay, and these vehicles get defined as commercial vehicles because of their weight?

Mr. Staranowicz: Yes

Mr. Mowery: And is that the 13,000-pound definition we were discussing?

Mr. Staranowicz: Yes, yeah, that's part of that, because it's a gross, the vehicle rating, the weight, is rated at 19,005.

Mr. Mowery: Alternatively, if the county viewed the weight of the vehicle as the unloaded weight and not that gross vehicle weight rating, they would actually not meet the definition of a commercial vehicle?

Mr. Staranowicz: Let's pull this back up here real quick. So the definition for a commercial vehicle is any vehicle that's 10,500 pounds or more.

Mr. Mowery: Okay, okay

Mr. Apicella: So this, this is actually a little bit more generous.

Mr. Staranowicz: That's the gross vehicle rate.

Mr. Apicella: Right? I'm just saying in terms of 10,500 versus 13. I'm not saying 13,000 is absolutely correct based on the discussion tonight, but it's still another 3500

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Mr. Staranowicz: Correct.

Mr. Gorski: Mr. Chairman

Mr. Apicella: Yes, Mr. Gorski.

Mr. Gorski: I listened to this and I'm still a little bit... I'm not confused anymore, but I do have an opinion on this. Since a special use is allowed as a home business II and it allows two commercial vehicles with this weight thing that we're trying to deal with. It is allowed and it's just unconscionable to me that we would ask someone, an individual, not only a property owner, but a business owner, that if this were not granted that they would have to go out and buy additional cars, personal vehicles. I find that so wildly unconscionable that I have to support this, because, from everything that I see is that this gentleman's business and these trucks do fall within the requirements set out for a home business II special exception.

Mr. Apicella: Are you making a motion?

Mr. Gorski: Yes.

Mr. Apicella: Okay, so there's a motion to approve the special exception requested by Hard Workers Landscaping with the conditions as mentioned in the staff report. Does that kind of summarize? Okay, is there a second?

Mr. Underwood: I will second that.

Mr. Apicella: Okay. Any further comments? Mr. Gorsky. Mr. Panjshiri. Actually, I'm sorry the protocol would be again Mr. Underwood.

Mr. Underwood: So the approach that I look at this is, first and foremost, is there a harm being done? And I don't see any particular harm with this application or the request that is being made. Furthermore, looking at the definition for home business, it speaks of two vehicles, each individually, less than 13,000 pounds. It doesn't specifically call them commercial vehicles. Doesn't specify whether or not that's empty, full, with the trailer, not with the trailer. And so, I think that there's a bit of ambiguity there and lack of clarity. And I think in this case, it would seem extremely unlikely that the original intent was to have a gross vehicle rating, particularly because a F150 would be over that the looked it up and the 2025 F150 is 13,200 pounds. So, it would seem unlikely that that would be the intent. And so that's why I'm supporting this.

Mr. Apicella: Mr. Panjshiri.

Mr. Panjshiri: I'm in the same mindset of supporting but I did have... just the discussion about the fencing that was brought up, especially for the fact that it kind of doesn't make sense, I guess in my mind, since it's an eight foot restriction, on it, and the vehicles are most likely taller, yada yada yada. I didn't know how everybody else on the board kind of felt, not that it's, per se pointless, but if we're talking about screening, it would have to go in front of the vehicle so is he installing like a door to open up to screen them, or, because that's from the street facing view would be like something like that. So I didn't know if there was any clarification on that or what that...

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Mr. Apicella: I mean, we do have a motion on the table, but just for clarification, what was staff thoughts in terms of making our recommendation?

Mr. Staranowicz: The thought was to put the fencing across the driveway from the corner of the house to the side property line. Then putting a gate in order for them to drive the vehicles behind the fence.

Mr. Apicella: Does that satisfy you, Mr. Panjshiri?

Mr. Mowery: Could I make a motion to amend the current motion to eliminate the fence requirement condition?

Mr. Apicella: Are you willing to accept a friendly amendment?

Mr. Gorski: No.

Mr. Apicella: You can make a motion. There'd have to be a second. Actually, I'm trying to think of the best way to handle that.

Mr. Mowery: I'm getting complicated, I know.

Mr. Apicella: Yeah, there'd have to be a substitute motion.

Mr. Mowery: Okay, a substitute motion to approve the application with the condition of the fence removed.

Mr. Apicella: Is there a second?

Mr. Underwood: All right, Mr. Chairman, am I able to second that?

Mr. Apicella: You did second the...

Mr. Mowery: It's valid procedure.

Mr. Blaisdell: I'll second that.

Mr. Apicella: Okay. All right, so there's a motion to recommend approval of the special exception with a change to the proposed conditions to remove the fence, see what number that is, help me out staff, which number is that

Mr. Staranowicz: Condition number two.

Mr. Mowery: Um, if I could clarify the substitute motion is to approve with the amended condition number two, to state only that no more than two vehicles associated with the business may be parked at the property, omitting the second sentence of number two, that they shall be screened by a fence.

Mr. Apicella: Gotcha. Okay. Okay, there's been a motion to again approve the special exception, keeping condition number two, but modifying it by taking out the last part of the sentence that both vehicles shall be screened from view of Yucca Drive with a board on board fence, no more than eight feet in height.

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Any further discussion, Mr. Mowry? Mr. Underwood? Anyone else? Okay, all in favor of that motion signify by saying aye.

Mr. Blaisdell: Aye.

Mr. Panjshiri: Aye.

Mr. Underwood: Aye.

Mr. Mowery: Aye.

Ms. Petty: Aye.

Mr. Apicella: Opposed?

Mr. Gorski: No.

Mr. Apicella: Okay, that motion carries six, with one voting against. All right, your special exception is approved. With those conditions, staff will be in touch with a letter confirming what's happened tonight. Thank you. Ok, we'll move on to the next agenda item, case number 2. Will the Vice Chairman read the case.

2. V25-01/25156178; Hugo & Natividad Lara – A request for a variance to Stafford County Code Sec. 28-35, Table 3.1, “District Uses and Standards,” more specifically to the front and rear setback requirements to construct a new single-family dwelling on Tax Map Parcel No. 19-6 (Property). The Property is zoned A-2, Rural Residential, and is located at 1403 Garrisonville Road, within the Rock Hill Election District.

Mr. Panjshiri: Our second case, V25-01/25156178; Hugo and Natividad Lara – A request for a variance pursuant to Virginia Code § 15.2-2309(2). If approved, the variance would authorize a variance from certain provisions contained in Stafford County Code Sec. 28-35, Table 3.1, “District Uses and Standards,” relating to the front and rear setbacks on Tax Map Parcel No. 19-6 (Property). The Property is zoned A-2, Rural Residential, and is located at 1403 Garrisonville Road, within the Rock Hill Election District. A request for a variance pursuant to Virginia Code § 15.2-2309(2). If approved, the variance would authorize a variance from certain provisions contained in Stafford County Code Sec. 28-35, Table 3.1, “District Uses and Standards,” relating to the front and rear setbacks on Tax Map Parcel No. 19-6 (Property). The Property is zoned A-2, Rural Residential, and is located at 1403 Garrisonville Road, within the Rock Hill Election District. The applicant is requesting a variance to encroach approximately ten (10) feet into the front setback and approximately sixteen (16) feet into the rear setback requirements for the purpose of building a single-family dwelling. This request is due to the shape and depth of the lot. The lot measures approximately 85 feet from front to rear. The proposed dwelling is approximately 35x34 feet. Additionally, there is a variable width utility easement that runs along Garrisonville Road. Not only must the Board of Zoning Appeals consider Stafford County Code Sec. 28-350, "Grant of a Variance", they must also consider Virginia Code § 15.2-2309(2), "Powers and Duties of Boards of Zoning Appeals" which states "Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property

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or improvements thereon requested by, or on behalf of, a person with a disability, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned 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 the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application. Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the board of zoning appeals under this section is required in order for such request to be granted." The property is located at 1403 Garrisonville Road, TM 19-6, and is zoned A-2, Rural Residential, consisting of approximately 0.4150 acres. The current owners purchased the property on November 26, 2013. The property is currently vacant. The property is located on the south side of Garrisonville Road approximately 613 feet west of the intersection with Algrace Boulevard. The property is mostly cleared of trees and shrubs and has an ingress/egress easement, which divides the property, and serves the property at 1405 Garrisonville Road. The property also has a garage that is to be demolished in order to place the house in that location. There are no wetlands, floodplain, or Critical Resource Protection Areas (CRPA) that would limit development or use of the property.

Mr. Apicella: Thank you. That was a mouthful. Are there questions for staff? Mr. Blaisdell? Mr. Gorsky? Mr. Panjshiri? Mr. Underwood? Mr. Mowery?

Mr. Mowery: Yes, I see that the setback here we're looking for 10 feet into the front and 16 into the rear. Can you just remind me what are the total feet requirements for those front and rear setbacks?

Mr. Staranowicz: The A-2 property requires a 40-foot setback from the front and a 35-foot setback from the rear.

Mr. Mowery: Thank you. And then additionally, I see in the application that they discuss having previous communication with the zoning department. Are you aware of any previous communication about this property?

Mr. Staranowicz: Yes, I spoke with them, and at the time I spoke with them, I was under the impression that there was a reconstruction project and that they would be able to reconstruct on the spot in the same footprint. However, when they discussed the building that they were building, it was much larger than what the footprint required, so therefore they would have to have the variance in order to build the new house.

Mr. Mowery: Okay, thank you. That's all.

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Mr. Apicella: Ms. Petty.

Ms. Petty: Just one question. Is the current garage structure within the setbacks?

Mr. Staranowicz: I don't believe it is. I would have double check, but I believe, well, it's possible, let me double check that and see. Uh, yes, it does appear that it would have been in this front setback.

Ms. Petty: Thank you.

Mr. Apicella: I've got some questions, and I'll come back. I just want to try to get some history of the parcel. What can you tell us about it?

Mr. Staranowicz: The parcel was in the Berryman family since 1947. Originally it was five acres. It was divided, split throughout the years and it wound up where this particular property was at .6 acres, which I verified through the Commissioner Revenue. In 2009 VDOT took approximately .185 acres, which reduced it to its current size.

Mr. Apicella: Okay, so have any primary or accessory structures been built on the parcel?

Mr. Staranowicz: At one point, the garage was on the structure. The structure that was on there was a garage. Previous photos show that it was like more of a carport type garage that was associated with the house, I believe, the house in the rear.

Mr. Apicella: So a separate parcel?

Mr. Staranowicz: Yes

Mr. Apicella: Okay, what's the minimum lot size in the A-2 district?

Mr. Staranowicz: Minimum lot size requirement is one acre.

Mr. Apicella: And what's the minimum, or average lot size of adjacent A-2 parcels?

Mr. Staranowicz: Of the adjacent parcels?

Mr. Apicella: Yeah, there's adjacent parcels, it looks like there's a big swath of A-2...

Mr. Staranowicz: The one in the rear is right at about a half-acre, and the adjacent parcel at 140, is approximately two acres.

Mr. Apicella: Okay, just so we can all be on the same page. You just mentioned another parcel that's half an acre, even though the minimum lot size is one acre. How does that work? Under what circumstances can you build a house on a lot that's an A-2 lot that's less than one acre?

Mr. Staranowicz: The property would be considered non-conforming. The lot itself, if they were to build on that property, it would have to meet the current code.

Mr. Apicella: So, anybody who's in A-2 district less than one acre, they have to meet the setback requirements?

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Mr. Staranowicz: They would still have to meet current code, yes.

Mr. Apicella: Okay, it's hard to tell from a visual perspective, are there steep slopes or something on the lot?

Mr. Staranowicz: No, it's a fairly flat lot.

Mr. Apicella: Okay, so are there any reasons that a house can't be built on the other side and oriented in such a way to minimize the setback encroachments?

Mr. Staranowicz: The drainfield is designed for the other side of the property.

Mr. Apicella: It's designed... could it be on the other side? I mean, can it be where the garage is? We don't know the answer to that question.

Mr. Staranowicz: They'd have to have a soils engineer come out and check that.

Mr. Apicella: Yeah, you can't answer that.

Mr. Underwood: Answering that question directly, Mr. Chairman, it does appear as though the lot is uniform in depth along the entire frontage.

Mr. Apicella: So, you think both sides are about equal distance?

Mr. Underwood: It would appear as though it would have the same encroachment.

Mr. Apicella: Okay, so still a similar question. We've seen a picture of the house. No matter what we do, if we were to approve this, we're not approving the specific design that they presented in the staff report. Right? We're only, we're only considering whether or not they can encroach into the setbacks. So again, my question is, and part of our responsibility is to at least ask the question whether there are some other options they have to minimize the amount of encroachment. Does it look like from your vantage point that they could orient the house in such a way, a house in such a way that minimizes the encroachment? Because it doesn't really show, I don't really see where the house is going to sit.

Mr. Staranowicz: In my opinion, they could possibly build something slightly smaller that would be able to minimize the encroachments.

Mr. Apicella: And if I read correctly, what they're proposing is about 1200 square feet per floor, 35 by 34. Do we know what the average size the houses are in that area?

Mr. Staranowicz: No, not right off the top of my head, no.

Mr. Apicella: Okay, and I thought I saw it in one place it said it was two stories but the design, again, we're not approving the design, looked to me like it was a three-story house. Is that correct?

Mr. Staranowicz: That was my impression also.

Mr. Apicella: Okay. Just see if I had any more questions here. Nope, that's it. All right. Last call for questions. Mr. Panjshiri, did you have a question?

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Mr. Panjshiri: So just to confirm, when the... was it conveyed...was it VDOT, you said that part at the front of that of the original parcel, when it was .6 to 4?

Mr. Staranowicz: Yes, it was VDOT that conveyed.

Mr. Panjshiri: And when did that happen?

Mr. Staranowicz: 2009.

Mr. Panjshiri: Okay, so before the current purchased the property. Okay.

Mr. Apicella: Anyone else? All right, thank you everybody. Would the applicant like to come forward and make a presentation.

Mr. Lara: Good evening Board of Zoning Appeals. My name is Eric and my mom is Nati, the homeowner. Where should I start?

Mr. Apicella: I'm sorry, I need to ask you for your address, just part of protocol.

Mr. Lara: Garrisonville Road.

Mr. Apicella: Thank you.

Mr. Lara: Is that good? So, the first thing I want to mention is the hardship, right? It's a narrow property, and narrow strip of property, it's a unique hardship because of just the way the lot is. And then the second point is, I wanted to make sure you guys knew where the septic tank was just for reference. I do have a...I don't know if you want to pass this around, but this is the location of the house and the septic tank. Would you guys like to see this?

Mr. Apicella: Is that it? Yeah.

Mr. Lara: You guy might have the permit. Oh, you guys, oh, does that show the septic tank?

Mr. Apicella: That's fine. You can hand it to staff and they can circulate it.

Mr. Lara: A quick visual reference, the septic tank. We made sure that that was the ideal position for the septic tank. They've tried different configurations. So, the house where we want the house to be is the best place for that property. So, there was a question about, like, is this the best place to put it? Based on what we talked with engineers, they said yes, it was. So next point is, so the other housing options, right, so one of the members said, a mobile house, right, I don't think a mobile house would work because it doesn't really bring value to the property. Building a house there will raise the property value. So, this is why we want to build a house there. So, let's see.

Mr. Apicella: I apologize since I have this and I only have one copy and kind of jumping through the order of your presentation and the questions from my colleagues but you're what I see is a house kind of close to the front of the parcel. Is there a reason the house can't go further back?

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Mr. Lara: Yeah. I mean, the house is, that would be the ideal position because if it goes back, well, it's kind of so this, this kind of goes into the second point. The building was non-conforming when we first bought the lot, right?

Mr. Apicella: What building are you referring to? The lot is non-conforming. It's the only structure on there is that garage, right?

Mr. Lara: Yes. You guys are characterizing it as a garage but there was a bedroom and a bathroom in that building, so I don't know if that, you know, is that a garage? It does have two big car spaces and then a bathroom and a bedroom. So, I don't know what you guys would characterize that in terms of like, what is this building characterized as? So, the building was non-conforming. We wanted to build a house on it. We went to zoning twice, actually four times, before purchasing the property in 2013. And we went in November and in October and literally, right before making the purchase and we told them, hey, we want to build a house here, "Can we build a house here?" and we got said yes four times, and that's and then afterwards, too, with our architect, she had some questions about the setbacks specifically, every single one of those two, there were two instances they said yes. And now, once we get the septic tanks ready, once the septic plans, once we get approval from I think it was VDOT for the encroachment on the power utility lines. We did all the work needed to submit a new residential permit. We submit everything and then we get feedback from them, and the feedback had some issues about the setbacks, right? So, then I go and I talk with zoning about this, okay, what's the issue? And setbacks come up again, and at that point, that's the first time I heard, "oh, you need a variance". If we had known that we need a variance for that property, we would have not bought it. But because of the consistent, I don't know, approval from the zoning department. And I don't want to like, bash on the zoning department. They're good set of people, and you know, they're helping us out a lot, especially my mom, because, she's been doing this, talking with everybody for a while, and I just came in starting December 2024, so she's managed somehow. And, I think I'm bantering, but the whole point is we didn't see this coming, that the variance was going to happen, that we needed to go through this variance process. So, we were kind of stunned at the very end. If they would have said, hey, you need a variance from the beginning, then I don't think I'd be here right now. So that's just, I would characterize that as one of the hardships that just came upon us and in good faith, we've consistently talked with the with zoning, about, you know, building a house here, and that's where we're at. So anyway, just a couple of other stuff, undue hardships, yep. Is it a unique hardship? Yeah, because of just the way the lot is and the narrow width and all that. Is there any detriment to us building out there? No, I don't think so. I think it'll bring up the property value of all the adjacent houses. And is this a regular occurrence? I don't think this will be. No, no. So, yeah, my mom's gonna talk now. Just for context, she's been handling this since the buying of the property. I came into the picture around December 2024 since before purchasing the property. I just got into the picture around December 2024 so she'll give you some idea of before December 2024.

Mrs. Lara: Good evening, sirs. My name is Mrs. Lara. You know, I buy this property November 19, 2013. Before I buy this property, I go October twice and November before I closing. I go to November 17, I went to back for I need to be sure to do construction on the house and the zoning, he told me, yes. And then, then I buy the house, the property 10 years I didn't doing nothing, just only clean the yard. Then the 2023 I start go to zoning and January 3, ask, I want to build in house. My architect, she went with me. Then asked, what kind of the house make? She explaining she's right. The zoning they say, don't go. You need to do in the where is the house. Don't go anywhere. You don't go. The route is wrong. They say don't build beyond the wall. But the other guy in the planning, he explaining, don't go to Garrisonville, but go to the driveway. The easement this size past three feet in the back and the other side in case, my neighbor on driveway. I have, I think, 23 feet. He say, you go there, three feet. You six feet, but don't go to the other neighbor is 1405. Don't go, but the you go on the back that my neighbor in

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the other go, okay, he designed it. She sent me in January 23 design everything. Okay. Then I started go to for septic. They gave me Dominion well and he started. One year it is approved. When it's approved, then I take it and the zoning, the driveway, the architect, then I say, I submit. Then, when I submit, he say me, no. Then I say, but he sent me, he designed in the paper everything now you say me no and then I say, What can I do? I pay extra engineer, civil, I pay architect. I say, please, help me, help me. What can I do? I spend in septic. I spend almost \$40,000. It's approved. Now I say, please, can you help me please in this property because I think I don't know, is my mistake or mistake the zone? But I go many times for zoning, the guy see me. I honest people. No, they guy see me. I go four times. Then I go to the zoning, then my architect, I go back in September 23 for ask again and he say, Yes. He then, I have the emails September 23 when she sent for me a structural architect, structure engineer, doing this one. Because the zoning he told me, this one, this one. He then he doing my Structural Engineer, civil engineer, architect, doing everything. Now he say, me, no. What can I do? Please, can you help me? Please. I spend a lot of money.

Mr. Apicella: Thank you, ma'am. Are there questions for the applicant? I'm going to start with Mr. Blaisdell.

Mr. Blaisdell: Not at the moment, no.

Mr. Apicella: Mr. Gorski.

Mr. Gorski: So based on your testimony here, both of you that you've gone to the zoning folks a number of times, four or five times. What have you. Do you have any of this in writing?

Mrs. Lara: I have only the September 23 when she got to center, the architect with me to go to zoning then he sent the email sent to engineer. Only that one I have. We have an email that our architect said, it's an email from the architect to the structural engineers saying, "Hey, we talked to the county. Make the structural plans based on this." I think it was a housing plan and those housing plans would have the setbacks.

Mr. Gorski: So but no communication with the county itself? Email traffic or anything in writing?

Mr. Lara: From 2013? No.

Mrs. Lara: 2023 plus I go to zoning. My son, he was in college that he didn't go with me so I go every time with my paper. I go.

Mr. Lara: We only have a recent since, I think it was 2024.

Mr. Gorski: Okay. Yeah, thank you.

Mr. Apicella: Mr. Panjshiri.

Mr. Panjshiri: Not this time.

Mr. Apicella: Mr. Underwood.

Mr. Underwood: Not at this time.

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Mr. Apicella: Mr. Mowery.

Mr. Mowery: Yes, I think you mentioned this, but I just want to clarify. The proposed house, is it any larger than the existing structure that's already there?

Mrs. Lara: No, no. My neighbor is the same size the where was.

Mr. Apicella: Yeah, I think what he's asking is the garage. What are the dimensions of the garage?

Mrs. Lara: It's only two garage for a small car. Say I want to do because no have a space I want to do in the first I want to do garage two garage. Then they go and the second level, only kitchen and the living room and dining room and the third floor, only two bedroom.

Mr. Mowery: So the total size of the house is going to be slightly larger than the existing structure?

Mr. Lara: Okay, so the first four, it's three floors. The first floor is supposed to be basically a garage, so it's basically going to have the same footprint as the existing one, but the second and third are going to be wider, three feet on the left and right side.

Mrs. Lara: No the three feet is in the front in the easement. The other is three feet and the other side where this go to my other driveway,

Mr. Lara: Yeah, yeah, three feet on the left and right side. Okay, front and rear, nothing.

Mr. Mowery: It'll be the same on the front and the rear and we're only looking at front and rear setbacks? I guess... we can we can deal with that a minute. Um, my last question is, why is it not feasible for you to make the house smaller? Is the only other option a mobile home? Or can you actually make the house narrower?

Mr. Lara: We've talked about just changing the dimensions to just expanding it on the left side, where we do have some a little bit of more clearance. Five, it was set at five feet. And we had our housing architect kind of do a little bit of, you know, basically, rework of the whole housing structure. But we got that suggestion, we told the architect, okay, go ahead and redesign the housing plans and that was a whole process, right? And then when she was done, that's when we got informed, okay, you need a variance. So at that point, it's like, okay, well, what do I do? Do I go with this first housing design or the second housing design? Each one has different setbacks, so if you guys have a preference, the first one has three feet on both sides, okay, if you guys prefer that, okay.

Mr. Mowery: But regardless, it would require a variance of some sort?

Mrs. Lara: Only the front from here no touch, nothing, okay, only go to the easement three feet in the back of the neighborhood is only driveway

Mr. Lara: We're trying. We're trying to comply.

Mr. Apicella: Can I piggyback off that? So if you were to go with the second design what encroachment would you have on the front, and what encroachment would you have on the back?

Mr. Lara: It would be the same.

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Mr. Apicella: The exact same thing? I thought you just said you had five feet of clearance on the left side to move the house.

Mr. Mowery: It sounds like they're only moving the left and the right and the front and the back are exactly the same.

Mr. Apicella: I'm gonna have some questions when I get those designs back but go ahead, Mr. Mowery.

Mr. Mowery: No other questions for me. Thank you.

Mr. Lara: Just a comment. The housing, the site map, site plan that you guys have, that should have three feet on each side, right? It has the first design that we had. And the plan was to if I don't have the housing plans with me, but the housing plan had a mention saying that we will reinforce the existing building so that we can improve on the non-conforming building that's already there. And then we talk to zoning, they're like, it might just be easier just to, like, build a new foundation. I'm like, Okay, can we do this. If this is good, I will do this. So the housing plans do have, there's a little discrepancy between it says to demolish that is, it is an error. And if you want, I can send you the papers where it shows what parts are going to be preserved of the initial foundation. Because we were told, okay, non-conforming buildings, you can't destroy it and put a new one, because now it has to comply, right? So if it's non-conforming, you repair it so that you can, you know, build on it. And that's what we went off of. And our housing plans do show that there is reinforcements of the existing foundation and one of the walls. So that's initially what we are going to do. And then after talking with zoning, they were like, you know, it might be better just to build a new foundation. And if that is possible, then yeah, we will do that. I mean, we're trying. Again we're trying to build a house.

Mr. Apicella: Ms. Petty.

Ms. Petty: It looks like, from the papers you gave us, the septic field is going to be across the driveway.

Mr. Lara: Yes.

Ms. Petty: Across the other side. And is that already built? Okay. Are you adding a driveway anywhere into the house?

Mrs. Lara: *Inaudible, not speaking into the microphone.*

Ms. Petty: Okay, is the garage entrance on the front of the house or the side?

Mr. Lara: It's on the right side.

Ms. Petty: Okay, so the driver would have to go around to the right side?

Mrs. Lara: *Inaudible, not speaking into the microphone.*

Ms. Petty: Okay. Now the what you're requesting, the encroachment, is for the back of the house and one side of the house?

Mrs. Lara: Yeah, in the front of the house, because three feet a little bit the front the from the design that he put it in the back is just only because the guy he explained you doing here three that's he doing,

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Ms. Petty: And the sides that you that are going to be encroaching on the setback, there's no other structures or roads, anything that's... okay. But the driveway is going to be on the right side of the house. Is that going to make it encroach even more towards the setback?

Mr. Lara: So there is already a driveway there and it's on the right side of the of the proposed...

Ms. Petty: Okay, and you're leaving that existing driveway and using that?

Mrs. Lara: *Inaudible, not speaking into the microphone.*

Mr. Lara: If there's a problem with the driveway, we're more than happy to make adjustments, and whatever you guys see fit for the driveway we'll do it.

Ms. Petty: Okay, but the variance you've requested for the setback is just for the building itself and then the driveway will be in addition to that?

Mr. Lara: I have not thought about that. I'm not sure.

Ms. Petty: Okay, I'm just asking.

Mr. Apicella: Yeah, I'm not sure that's an issue, because the driveway isn't... we're not measuring the lines based on the driveway. We're measuring based on this house.

Mr. Staranowicz: The house isn't being measured from the driveway. The existing driveway that's there is also an easement that services the back property at 1405 so they'll be using that driveway themselves, plus the neighbor will be able to use it to access their property. And just so you understand, the front of their house is actually oriented towards the driveway so... but when we look at the property, the front of the property is going to be along Garrisonville Road.

Ms. Petty: I understand but I understand they're going to have another driveway that comes to the right side of the house to access the garage.

Mr. Staranowicz: According to their house plan, the garage is on the right side of the front of the house. It's not where they would have to come around the side of the house.

Ms. Petty: Okay. Thank you.

Mr. Apicella: Any further questions? Go ahead Mr. Gorski.

Mr. Gorski: So this is a... James, a question for you. If a new foundation was dug and we're not using any of the existing garage, is there a possibility, then that what they're proposing can meet all the requirements, or is it just because they're trying to reuse some of this garage structure or old house structure that we're having the issue?

Mr. Staranowicz: The last time I spoke with them they told me that they were going to just pull out the old foundation and put in a new one for the new structure. So, it's all brand new and just another thing, the garage was measured at 27 by 30, I think, so the house is actually going to be bigger than that footprint.

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Mr. Gorski: Okay, so we still run into the issue then?

Mr. Staranowicz: Right.

Mr. Gorski: Okay, thank you.

Mr. Apicella: I just want to clarify something one more time. The front of the house is oriented towards where?

Mr. Staranowicz: Towards the driveway.

Mr. Apicella: Which is, okay, so it's towards the access road, not towards...

Mr. Staranowicz: Yeah, the access road into the property.

Mr. Apicella: Okay.

Mr. Lara: The front of the house is on the right of the... I guess the semantics, right? So the front of the house is facing the road right, but the actual like, the face of the house is on the right side.

Mr. Apicella: So again, I'm gonna ask the same question, if you were to reorient the house, I know it might be the preferred way and the more convenient way of accessing the house, to have it along the access road, but if you were to reorient the house so that the front of the house was facing towards Garrisonville Road, again, not necessarily what you would prefer. Would that, and I'm not saying you wouldn't need a variance, the question is whether you would minimize the amount of variance that you need?

Mr. Lara: I don't know. Would we? I don't know.

Mr. Apicella: I don't know. I don't know that question. It's hard to tell, because what we don't have is a real actual, I don't see a real actual house design. I mean a house laid out on a plat to see what the dimensions are. So again, part of our responsibility. Variances are granted very rarely. They're an exception to the rule. So, we're not trying to nitpick this, but part of our requirement is, if we do approve a variance, it is to find a way to minimize the amount of encroachment. You may not think it's a lot. I may not even think it's a lot, but that's still part of our responsibility. So it's worth at least asking the question whether or not you could reorient the layout of the house. Not just, I'm not saying a smaller house. I'm just saying, could you just find a different way to orient the house so that you're not, right now, what you're asking for is to have your house 19 feet from the rear and 30 feet from the front, versus what the current requirement is. So I'm just trying to see if there's a way to lessen that. May not be, I don't know. I'm just but it's part of our responsibility, at least to ask that question.

Mr. Lara: Let me ask her. She says it would be the same.

Mr. Apicella: Okay at least I asked the question. All right. Thank you very much. No other questions for the applicant. I'm gonna move to open the public hearing. If there any members of public who wish to speak in support of the application, please come forward now. Okay, are you coming to speak in favor or in opposition? Okay, thank you, sir. I need your name and address.

Mr. Williams: Ronnie Williams. I have no problems with the application.

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Mr. Apicella: Thank you, sir. Okay. Thank you. Anybody else? All right, seeing no one else to come forward in favor or in opposite. Oh, is there anyone would like to speak in opposition? All right, seeing no one. I'm gonna ask the applicant if they have any further comments. No, okay. All right, I'm gonna close the public hearing and bring it back to the Board for discussion and deliberation.

Mr. Mowery: I'd like to just clarify the facts with James real quick. So, the existing structure is 27 by 30 and the new structure is proposed at 34 by 35

Mr. Staranowicz: That's correct.

Mr. Underwood: I believe it is 27 by 33 existing structure.

Mr. Mowery: Twenty-seven by 33 existing and 34 by 35 for the new one. So, it's almost a perfect square. So it sounds like, to your point, like reorient, and it seems like it wouldn't change at all if it's even if you shift it around 90 degrees, it's going to be just about the same setback regardless. I mean, I think it sounds reasonable to put this home on this lot. It's it is an unnaturally narrow lot, especially for A-2 but it's already been non-conforming in there, and so this seems like the most reasonable use of that lot, in a way that still improves property values in the area. That's all the comments I have.

Mr. Apicella: Okay, anyone else? Anyone want to make a motion?

Mr. Underwood: I do have one question for staff. If the applicant were to rebuild in the exact footprint of the existing garage, would this variance be required?

Mr. Apicella: I thought, if it's a non-conforming use, and they don't make a change, they're using the same parameters, they could do that legally, because it would be a legally non-conforming use, although the question is whether or not it's really a house, right? Or a garage?

Mr. Staranowicz: That's part of the question, is it really a house? Because and the other, the portion, as far as rebuilding on the same footprint, falls under whether it was an act of God that destroyed the house, natural disaster, or fire, or something of that sort, where the house was destroyed and had to be rebuilt, then we would allow them to rebuild on the same footprint. In this particular case, the house deteriorated over time or the structure.

Mr. Apicella: Okay, other thoughts or a motion?

Mr. Mowery: I'll make a motion to approve.

Mr. Apicella: Okay, is there a second?

Mr. Gorski: I second that.

Mr. Apicella: Okay, a motion been made and seconded to approve the variance request. Any further comments? Mr. Mowery.

Mr. Mowery: None.

Mr. Apicella: Mr. Gorski.

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Mr. Gorski: I do. I agree with Mr. Mowery with this. I think that a variance is rare to give out or, you know, there's a high burden, but I believe this property owner is trying to do the right thing, to bring this very oddly shaped and sized property onto the tax rolls I think is a very good thing, and I fully support this.

Mr. Apicella: Any other comments? I agree. I think this is exactly the set of circumstances that meet the criteria for a variance. I think we've done our job asking the questions whether there are other alternatives, or there's different way that they could orient the house. Doesn't seem to be the case. Or if there were, it's very minor at best. So this was a good variance request. In my time on here, I voted against most variance requests, but this is exactly the kind of one that has merit to it. So, for that reason, I'm going to support it. All right. All those in favor of granting the motion or supporting the motion in favor of the variance, say aye.

All members: Aye.

Mr. Apicella: Nay? Motion carries 7-0. Congratulations. Staff will be in touch with you with a letter verifying the decision of the BZA tonight. Thank you very much. Okay, we're going to move on. Unfinished Business. None. Zoning Administrator's Report.

UNFINISHED BUSINESS

NONE

ZONING ADMINISTRATOR'S REPORT

Mr. Staranowicz: I'll go ahead and go with this one. Um, we do have one case for next month. It will be an appeal of a Zoning Administrator determination, and as a reminder that meeting is going to be on March 19, instead of the 25th because of conflict with the Board and we moved the date up a week. And that is a Thursday, I believe, Wednesday or Thursday, a Wednesday. So, it'll be on a Wednesday night.

Mr. Apicella: Anything else, James?

Mr. Staranowicz: I have nothing else.

Mr. Apicella: Okay, will we see at that meeting?

Mr. Staranowicz: It's possible.

Mr. Apicella: We hope so, because we'd like to be able see you.

Mr. Staranowicz: I'll be sitting in the background, letting Mr. Bernal run the show.

ADOPTION OF MINUTES

3. January 28, 2024 Board of Zoning Appeals Meeting Minutes_DRAFT

Mr. Apicella: All right, thank you, sir. Adoption of minutes. Is there a motion and a second to approve the minutes from the January 28, 2025 BZA meeting?

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Mr. Mowery: So moved

Mr. Apicella: All those in favor say aye.

All members: Aye.

Mr. Apicella: Opposed? That motion carries. Other Business. James, do you handle this? Or do I handle this? The Election of Officers. Okay, Other Business - Election of Officers. Are there any motions for Chairman?

OTHER BUSINESS

NONE

ELECTION OF OFFICERS

Mr. Mowery: Before we get into that, I want to clarify, because this came up with our discussions of the alternate stuff, how there's no existing rules for alternate members and I just think that the appropriate position for an alternate member in this discussion is that we don't participate because we should not be eligible for one of these seats.

Mr. Apicella: Well, you can participate today because you're serving as a regular, you're voting on behalf of a regular member.

Mr. Mowery: Okay, but we should not be eligible for a nomination.

Mr. Apicella: No, an alternate member is not.

Mr. Mowery: That would throw everything into chaos.

Mr. Apicella: Again, is there a motion or motions for Chairman?

4. A. Election of Chairman

Mr. Gorski: Yeah, I nominate our current Chairman.

Mr. Apicella: Any other nominations? Okay? Well, thank you. I guess we could just take the vote. All those in favor say aye.

All members: Aye.

Mr. Apicella: Opposed? All right. Well, thank you, everybody for your confidence. Is there a motion for Vice Chairman?

B. Election of Vice-Chairman

Mr. Blaisdell: I'd like to nominate Abraham.

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Mr. Apicella: Okay, any other nominations? All right, seeing no other nominations, all those in favor of Abraham for Vice Chairman, please say aye.

All members: Aye.

Mr. Apicella: Okay, the motion carries. We definitely need a Secretary. Anybody want to nominate somebody? Anybody interested? I know Abraham has done a fantastic job, but I don't think he can wear two hats, so...

C. Election of Secretary

Mr. Gorski: I would like to put myself in for nomination if I could.

Mr. Apicella: Yeah, that's fine. Any other nominations?

Mr. Gorski: Should I give a speech as to why I think I would be a great secretary?

Mr. Apicella: We know it from the great stuff that you've done on this panel.

Mr. Gorski: Because I'm willing to do that.

Mr. Apicella: All right. All those in favor of seeing no other nominations, all those in favor of Mr. Gorski for Secretary, please say aye.

All members: Aye.

Mr. Apicella: All right. Congratulations, Mr. Gorski and Abraham. All right; do I hear a motion to adjourn?

Mr. Underwood: Mr. Chairman, I don't know if this would be the appropriate time, but what would be the appropriate way to draft something to send to the board in regards to the 13,000 pound question that we addressed earlier?

Mr. Apicella: Yeah, we can just, by consent, unanimous consent, just say that we think that the Home Business II definition should be revisited, especially with regard to the weight limit of commercial trucks. Is that fair?

Mr. Underwood: That would be wonderful.

Mr. Apicella: Does that work for everybody?

Mr. Mowery: Mr. Chairman, something else. Um, one. I hope we call it the 13,000-pound question when we ask it. But two, one of the applicants tonight had mentioned that they had previously submitted an application for a Home Business I and it had been denied. Is there a way in the future that if an application comes before us, and they've previously had an application come before the board, that we could get the meeting minutes from that day to look over as well, just because that'll provide us some additional background.

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Mr. Apicella: So I think for clarification, it was, it didn't come to the BZA was at the staff level determined that it didn't qualify for our own business. Is that my understanding?

Mr. Staranowicz: Yeah, Home Business I is a use that's allowed by right in the R-1 zoning district, so they wouldn't have needed to come to the BZA. The only reason this one has to come is because of the intensity of it. It's a little bit more intense of a use.

Mr. Mowery: Okay, that clarifies it for me. Thank you.

Mr. Staranowicz: But typically, I try to include those if there's a, you know, if there was a previous one, I would typically try to include those, but right off the top of my head, I don't remember seeing one, so it's...

ADJOURNMENT

Mr. Mowery: Okay, awesome. So, I make a motion to adjourn.

Mr. Apicella: Yes, thank you. All those in favor say aye.

All members: Aye.

Mr. Apicella: Opposed? That motion carries. Thank you, everybody.

At 8:47 PM, Chairman Apicella adjourned the February 25, 2025, Stafford County Board of Zoning Appeals meeting.