



BOARD OF ZONING APPEALS MEETING

Tuesday, September 05, 2023 at 5:00 PM

AGENDA

CALL TO ORDER.

DETERMINATION OF A QUORUM.

APPROVAL OF MINUTES.

- [1.](#) Meeting Minutes - August 1, 2023

PUBLIC HEARING.

- [2.](#) BZA-23-3 - Application for a Variance pursuant to Article 2-19, Fences and Walls, of the Town of Warrenton Zoning Ordinance. The request is for a variance to permit a two-foot height increase for a fence, from four feet to six feet in height, within the secondary front yard setback area along Horner Street and Haiti Street of the residential lot located at 57 N Fourth Street. GPIN 6984-43-9745-000. Fauquier Habitat for Humanity, Inc. (Owner); Melanie Burch, CEO, Fauquier Habitat for Humanity (Applicant)

UPDATES.

- [3.](#) Town of Warrenton Board of Zoning Appeals Policy on Remote Participation. The BZA does not currently have an adopted policy to allow a member to participate remotely, as allowed by the Code of Virginia Section 2.2-3708.3. Should the BZA wish to adopt such a policy, this would permit a member to attend a meeting virtually if they meet the standards laid out in the policy.

ADJOURN.



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

MINUTES

A REGULAR MEETING OF THE BOARD OF ZONING APPEALS WAS HELD ON AUGUST 1, 2023, AT 5:00 P.M. IN WARRENTON, VIRGINIA

PRESENT Mr. Larry Kovalik; Ms. Melea Maybach; Mr. Amos Crosgrove; Ms. Betsy Sullivan; Mr. Rob Walton, Director of Community Development; Ms. Heather Jenkins, Zoning Administrator; Ms. Amber Heflin, Zoning Official.

PRESENT VIA ZOOM

ABSENT

CALL TO ORDER AND DETERMINATION OF A QUORUM

The meeting was called to order at 5:05pm. There was a quorum of members present.

ELECTION OF OFFICERS

Ms. Heflin briefly speaks on the appointment of an official secretary.

Mr. Kovalik asks for clarifications on the criteria for and responsibilities of the official secretary.

Ms. Heflin provides the requested information.

Mr. Kovalik asks for any motions.

Ms. Maybach moves to appoint the Zoning Administrator or their designee to the position of Secretary. Mr. Kovalik seconds. All in favor.

Ayes: *Mr. Larry Kovalik, Chair; Ms. Melea Maybach; Ms. Betsy Sullivan*

Nays:

Absent During Vote: *Mr. Amos Crosgrove*

APPROVAL OF MINUTES

Draft Minutes – JUNE 6, 2023

Ms. Maybach motioned to approve the minutes for previous meetings, as presented. Mr. Kovalik Seconded. All in favor.

Ayes: *Mr. Larry Kovalik, Chair; Ms. Melea Maybach; Mr. Amos Crosgrove; Ms. Betsy Sullivan*

Nays:

Absent During Vote:

PUBLIC HEARING

BZA 2023-2 – 576 Galina Way

Ms. Heflin provides an overview of the application and the Boards previous review of the application during the June meeting.

Ms. Heflin provides a review of the criteria for a BZA decision.

Mr. Kovalik asks if there are any questions for staff.

Mr. Sullivan asks staff to clarify what is considered the rear plain of the house.

Ms. Heflin provides the clarification.

Mr. Kovalik asks if the public hearing was advertised to the surrounding residents and if responses were received.

Ms. Heflin responds.

Mr. Kovalik opens the public hearing at 5:14pm.

Mr. Travis Simoes, applicant and resident of 576 Galina Way, comes forward to speak.

Mr. Simoes provides further details to the Board, discussing the findings of the surveyor.

Mr. Kovalik asks for any other speakers.

No further speakers are present.

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

Mr. Kovalik asks for any discussion or a motion.

Mr. Kovalik moves to deny the variance based on the following Board finding, the strict applications of the ordinance does not reasonably restrict utilization of the property, the strict applications of the ordinance does not alleviate a hardship due to the physical condition of the property or improvements thereof at the time of the effective date of the ordinance, the variance would be contrary to the intent and purpose of the ordinance, the granting of the would not result in substantial justice being done, the relief requested can be granted only through the modification of the zoning ordinance. No second, the motion fails.

Mr. Kovalik asks for another motion.

Mr. Cosgrove begins to motion to approve the variance.

Ms. Heflin advises that the board can discuss the issue in question.

Mr. Kovalik details his review of the property and the variance request along with his concerns for what approval of the variance request could invite.

Mr. Kovalik invites the applicant, Mr. Simoes, to come forward to speak.

Mr. Simoes outlines discussions with Town staff regarding the positioning of the proposed fence.

Mr. Kovalik asks for any other discussion.

Mr. Cosgrove asks about the effect that the storm water drain and easement on the property effects should have on the Boards consideration.

Mr. Kovalik responds with his considerations regarding the storm water issue easement and concerns that approval could set precedence for future variance requests.

Mr. Kovalik asks for any other discussion.

With no further discussion forthcoming, Mr. Kovalik asks the Board for a motion.

Mr. Cosgrove moves to approve the variance, with the applicants' fence not to exceed six feet in height and no portion of the fence over four feet in height shall extend closer to Galina way than the rear plain of the house. Seconded by Ms. Maybach.

Mr. Kovalik asks the Board for any discussion.

Mr. Kovalik asks that conditions be added to prevent the addition of illuminated post caps to the fence.

The vote was as follows:

Ayes: *Ms. Melea Maybach, Vice Chair; Mr. Amos Crossgrove; Ms. Betsy Sullivan*

Nays: *Mr. Larry Kovalik, Chair*
Abstention:
Absent During Vote:

UPDATES

Ms. Heflin advises that there may be a September BZA meeting.
No updates from the Board.

ADJOURNMENT

Ms. Maybach motioned to adjourn. Mr. Kovalik seconded, all in favor. No discussion.

The meeting was adjourned at 5:36pm.

DRAFT



TOWN OF WARRENTON
Community Development Department

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
Landdevelopment@warrentonva.gov
(540) 347-2405

STAFF REPORT

September 5, 2023

Property Owner: Fauquier Habitat for Humanity, Inc.

Applicant: Melanie Burch, CEO, Fauquier Habitat for Humanity

Application # BZA #2023-3

Location: 57 N Fourth Street

PIN: 6984-43-9745-000

Acreage: 0.2133 Acres (9,291 square feet)

Zoning Residential R-6

Comprehensive Plan Designation: Medium Density Residential

Land Use: Residential - Single Family Detached

Request: The Applicant is seeking approval of a Variance from Zoning Ordinance Article 2-19, to allow the construction of a fence greater than four feet in height within a front setback.

Recommendation: Staff finds that the applicant has not provided sufficient evidence to demonstrate that a clear hardship is present due to a physical condition of the property. However, should the Board find that there is a hardship present, staff strongly recommends that the Board defer action on this matter until such time as the applicant has provided a line of sight plat certified by a Land Surveyor, demonstrating that the desired location and height of a fence along Haiti Street and Horner Street will not restrict necessary line of sight at the intersection so as to meet VDOT intersection sight distance requirements.

REQUEST

The applicant is requesting a variance from Article 2-19 of the Zoning Ordinance to construct a fence greater than four feet in height within the front setback of the subject property. Section 2-19 of the Zoning Ordinance permits the following with regards to fence height:

2-19.1 Fences and walls may be erected up to a height of six (6) feet in all zoning districts, except for fences or walls that extend within the required front setback, unless otherwise restricted by the ARB within the Historic District. Within the area bounded by the front setback and the side lot lines, fences and walls shall not exceed four (4) feet in height, unless otherwise restricted by the provisions of this Ordinance. Excluded are walls or fences encompassing swimming pools or other uses which are required by law.

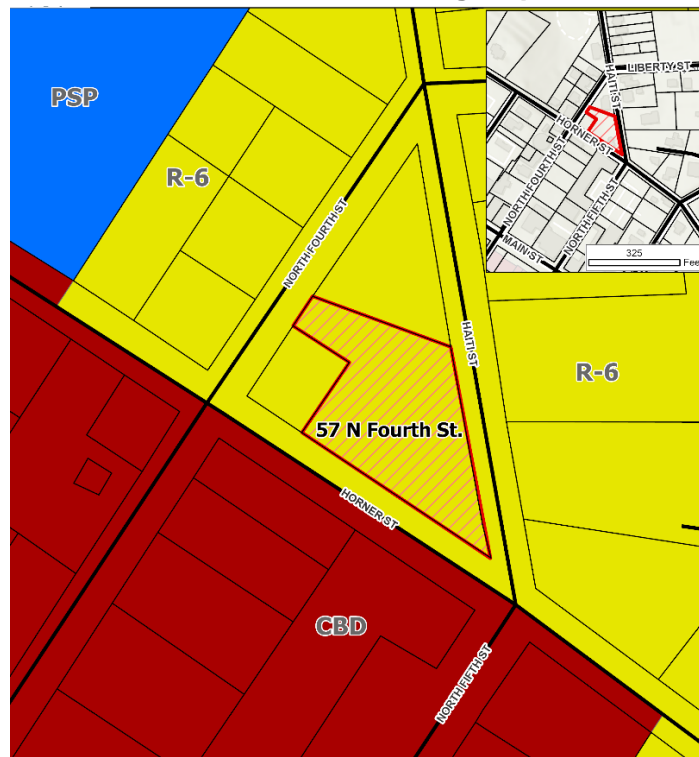
2-19.2 Fences along the secondary front yard of a corner lot shall meet the side yard setback requirements within the front setback if they exceed four (4) feet in height.

The proposed location for the proposed six-foot high fence is along the property frontages along Haiti and Horner Street. The fencing extends along the property lines to enclose the backyard of the property.

As fences up to six feet in height are permitted in all zoning districts except within a front setback, approval of the application would grant a variance of up to 8 feet from the required 8-foot setback for a six-foot fence, which is equivalent to a two-foot height variance for a fence located in the front setback.

The applicant states that the six-foot high fence is needed to increase the safety and security of the homeowner, as well as to provide a visual barrier to increase privacy for the backyard to allow the children to maximize usage. The applicant states that they plan to employ a line-of-sight surveyor to address the staff concern about vehicular traffic being able to see around the fencing safely. To date, staff has not received a line-of-sight survey.

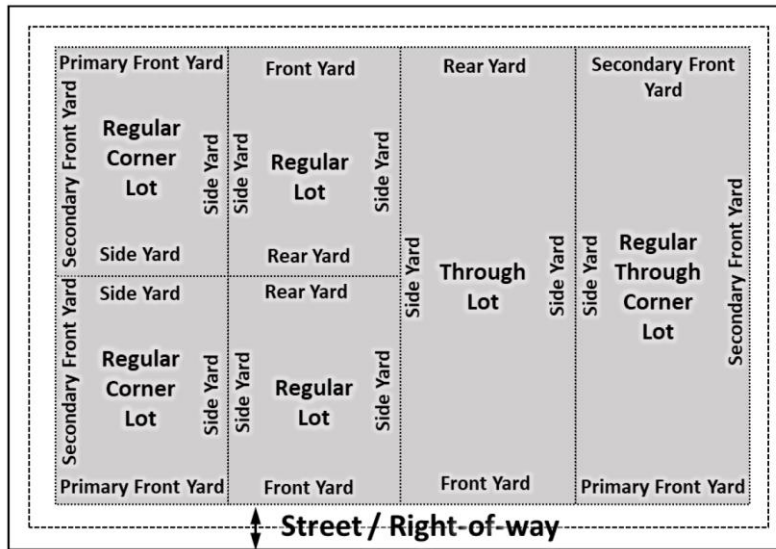
Location and Zoning Map



BACKGROUND

Haiti Street, North Fourth Street, and Horner Street consist of a 30-foot-wide right-of-way dedicated for public street purposes. As the subject property has street frontage on Haiti Street, North Fourth Street, and Horner Street, the lot is a Regular Through Corner Lot per Ordinance Section 2-13 *Methods of Measuring Lots, Yards and Related Terms*.

Figure - Section 2-13.2 Regular lots, determination of front yard



On regular through corner lots, all sides along streets are considered front yards, where the primary front yard is the shortest boundary fronting on a street and the secondary front yard is the longest boundary fronting on a street as stated in Ordinance Section 2-13.2.2 *Regular lots, determination of front yard* and further stated in Section 2-13.9. Therefore, the primary front yard for the subject property is along North Fourth Street, with secondary front yards along Horner Street and Haiti Street.

Section 2-19.2 of the Ordinance permits a setback reduction for corner lots, specifically for fences. Section 2-19.2 states:

Fences along the secondary front yard of a corner lot shall meet the side yard setback requirements within the front setback if they exceed four (4) feet in height.

Within the R-6 district, the minimum required side yard setback is 8 feet, as found in Section 3-4.3.4 *Lot and Yard Regulations*. Given the setback reduction permitted for fences in Section 2-19.2, the subject property is permitted to have a fence up to four feet in height to within 4 feet of the Haiti and Horner Street rights-of-way; any fence greater than four feet high must be set back at least 8 feet from the property line.

ANALYSIS

Staff has reviewed the requested variance against the Virginia State Code and the Town of Warrenton Zoning Ordinance to determine if the request meets the criteria required to grant the variance. Below are the variance criteria along with staff's analysis on how the application either

meets or does not meet each criterion. The BZA must determine if the application has provided sufficient proof that the request meets the standards for a variance as defined by the Virginia State Code. Virginia State Code and the Zoning Ordinance define a variance as:

Variance – In the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the Ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the Ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

In granting a variance, the BZA may impose such conditions regarding a proposed structure's location, character, and other features or use as it may deem necessary in the public interest. The BZA may require a guarantee or bond to ensure compliance with the imposed conditions. The property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinances. Per the Virginia State Code,

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:

1. *Unreasonably restrict utilization of the property, or*

The subject property is developed with a single-family detached residence, a by-right permitted use within the R-6 Zoning district. Since the subject property is considered a Through Corner Lot, with frontage on three public streets, the Ordinance allows a setback reduction specifically for fences located within the secondary front yard, which in this case is along Haiti and Horner Streets.

The property is currently improved with a newly constructed single-family home, and paved driveway.

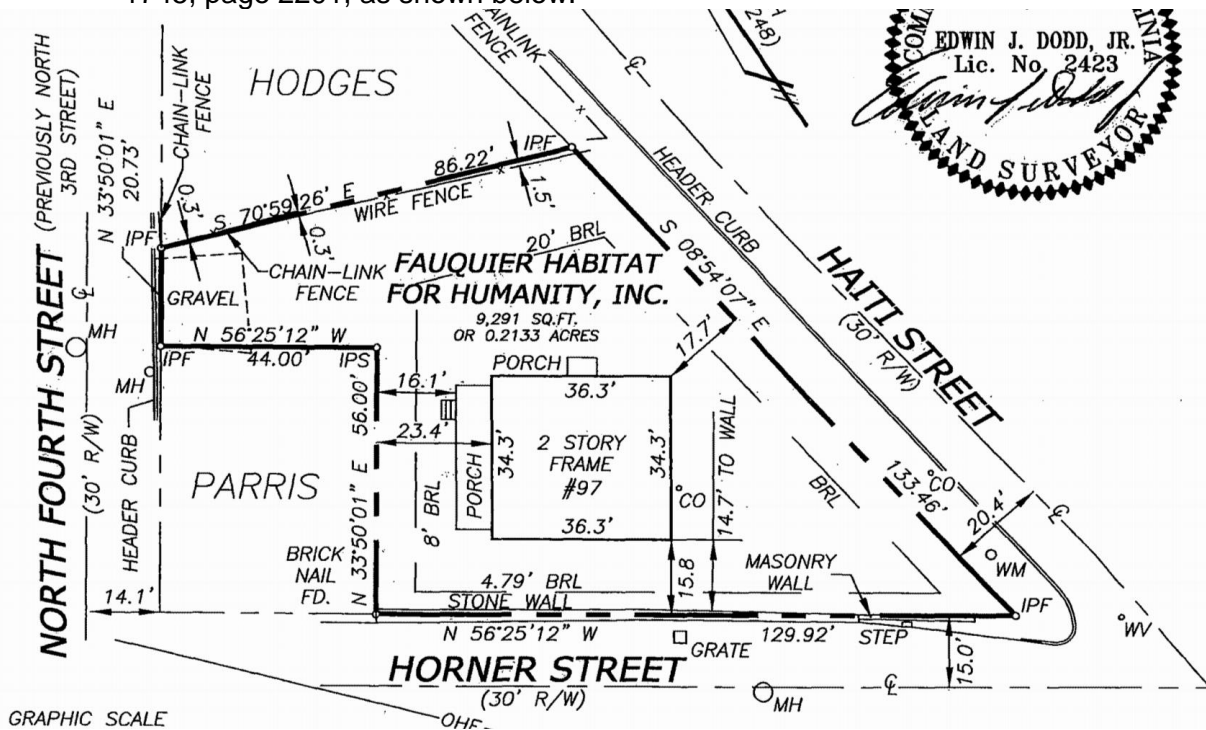
Staff does not find that the applicant has proven by a preponderance of the evidence that the four-foot height limitation for fences within the front yard setback area unreasonably restricts the utilization of the property as a single-family residence. The applicant expressed safety concerns for the residents of the home, but the applicant has the option to adjust the location of the fence to be outside of the 8-foot setback area should a six-foot tall fence be desired.

OR

2. *that granting 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*

A *hardship*, is “something that causes or entails suffering or privation” (Merriam-Webster, 2023). Within the context of a Variance, an applicant must demonstrate that a variance would relieve a hardship or lessen an unequitable condition due to a physical condition of the property that equates to privation.

The subject property has been in existence as a separate lot of record since at least September 2, 1867, as referenced in Deed Book 60, Page 353. The shape of the property is irregular, however the shape of the property does not prohibit the construction of a single-family home, as demonstrated with Building and Zoning Permit number BLDG-22-1069, where final occupancy was issued on April 7, 2023, subject to a final house location survey recorded on March 22, 2023, in Deed Book 1745, page 2201, as shown below.



The 9,291 square foot lot meets the minimum lot size of 6,000 square feet as required in Section 3-4.3.4 of the Zoning Ordinance, and the newly constructed home meets the minimum required front and side yard setbacks. Both Horner Street and Haiti Street are heavily utilized during peak travel hours, and the intersection of Haiti Street is at an acute angle, less than the standard right-angle (90 degree) intersection layout. The applicant's request to install a six-foot high fence within the secondary front yard setbacks along Horner Street and Haiti Street may restrict line of sight at the four-way intersection, especially for vehicles exiting Haiti Street onto Horner Street, and negatively impact roadway safety.

Staff does not find that the applicant has provided sufficient evidence to demonstrate a clear hardship due to a physical condition of the property; however, should the Board find that there is a hardship present, staff strongly recommends that the Board defer action on this matter until such time as the applicant has provided a line of sight plat certified by a Land Surveyor, demonstrating that the desired location and height of a fence along Haiti Street and Horner Street will not restrict necessary line of sight at the intersection so as to meet VDOT intersection sight distance requirements.

OR

3. *alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability."*

The applicant's justification does not include a request for the variance to provide a reasonable modification to the Ordinance requirements for a person with a disability.

In addition to the three points above, no variance shall be authorized by the BZA unless it is determined that the request meets all five of the following criteria as listed in Zoning Ordinance Section 11-3.11.1 2. - *Standards for Variances*:

- a) *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.*

The property was acquired in good faith by the applicant on October 31, 2019, as recorded in Deed Book 1612, Page 287. This standard is met by the applicant.

- b) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.*

The applicant has not provided sufficient evidence to demonstrate that the location and height of the fence within the secondary front yard setback areas for Haiti Street and Horner Street will not negatively impact the safety of drivers and pedestrians at the roadway intersection. This standard has not been met by the applicant.

- c) *The condition or situation of the property is not of so general or recurring of a nature as to be adopted as an amendment to the Ordinance.*

The condition of the property, as an irregular-shaped lot with three roadway frontages, is not generally occurring within the surrounding area. This standard is met by the applicant.

- d) *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.*

Approval of a variance to reduce the setback for a six-foot tall fence within the 8-foot-wide secondary front yard setback will not change the existing residential use of the property, and will not change the zoning classification of the property. This standard is met by the applicant.

- e) *The relief or remedy sought by the variance application is not available through a special use permit process that is authorized in the Ordinance or the process for modification to the Zoning Ordinance at the time of the filing of the variance application.*

A Special Use Permit cannot provide relief from the limitation on fence height within the front yard setback. This standard is met by the applicant.

STAFF RECOMMENDATION

To grant a variance, the Board of Zoning Appeals must find that the application meets:

- **One of the first three criteria (1 - 3)** listed above regarding unreasonable utilization, alleviating a hardship, or accommodating a person with a disability; **and**
- **All five of the remaining criteria (a – e)** noted above regarding good faith acquisition, no substantial detriment, not generally recurring, does not allow an unpermitted use, and is not available by other means.

Staff finds that the applicant has not provided sufficient evidence to demonstrate that a clear hardship due to a physical condition of the property is present. However, should the Board find that there is a hardship present, staff strongly recommends that the Board defer action on this matter until such time as the applicant has provided a line of sight plat certified by a Land Surveyor demonstrating that the desired location and height of a fence along Haiti Street and Horner Street will not restrict necessary line of sight at the intersection so as to meet VDOT intersection sight distance requirements.

ATTACHMENTS

- A. Proposed Conditions of Approval / Proposed Motion for Denial
- B. Variance Application Materials
- C. Deed of Ownership – October 31, 2019
- D. House Location Survey – March 22, 2023

PATTERN MOTION TO APPROVE VARIANCE

VARIANCE

**BZA #2023-3 Melanie Burch, CEO,
Fauquier Habitat for Humanity, Inc.**

**BZA MEETING DATE:
September 9, 2023**

In Application BZA #2023-3, I move to grant the Variance, after due notice and hearing as required by Code of Virginia §15.2-2204 and Article 11-3.11 of the Town of Warrenton Zoning Ordinance, based on upon the following Board findings:

1. The strict application of the Ordinance would unreasonably restrict the utilization of the property, the need for the variance will not be shared generally by other properties, and the variance is not contrary to the purpose of the ordinance.
2. 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; and
3. The granting of the variance will not be of substantial detriment to the adjacent property and nearby properties in the proximity of that geographical area; and
4. 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; and
5. 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
6. The relief or remedy sought by the variance application is not available through a Special Exception or Special Permit process that is authorized in the Ordinance or the process for a modification from a provision of the Zoning Ordinance at the time of the filing of the variance application.

The Variance is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in substantial conformance with the information and drawings submitted with the variance application except as specifically modified by the conditions below or as necessary to meet Zoning Ordinance requirements.
2. The height of the fence within the secondary front setback area may be increased by two (2) feet, not to exceed a total fence height of six (6) feet from the ground surface.
3. Fence post caps (if used) shall not increase the height of the fence beyond six (6) feet.

PATTERN MOTION FOR DENIAL

VARIANCE

**BZA #2023-3 Melanie Burch, CEO,
Fauquier Habitat for Humanity, Inc.**

**BZA MEETING DATE:
September 9, 2023**

In Application BZA #2023-3, I move to deny the Variance, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Article 11-3.11 of the Town of Warrenton Zoning Ordinance, based on upon the following Board findings:

1. The strict application of the Ordinance does not unreasonably restrict the utilization of the property.
2. The strict application of the Ordinance does not 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.
3. The variance would be contrary to the intent and purpose of the Zoning Ordinance.
4. The granting of the variance would not result in substantial justice being done.
5. The relief requested can be granted only through modification of the zoning ordinance.
6. _____
7. _____

Our Vision

A world where everyone has a decent place to live.

**Our Mission**

Seeking to put God's love in action, Habitat for Humanity brings people together to build homes, community and hope.

We build strength, stability, self-reliance and shelter.

Statement of Justification for 97 Horner Street

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:

1. Unreasonably restrict utilization of the property, or
2. that granting 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
3. alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability.

Answer:

2. The house's orientation was turned away from Horner Street because it faced the town wall, looking up to Horner Street with an original setback of about three feet. The cut in the wall to access the home is town owned and does not provide safe access to a walkable spot, stepping directly into traffic. The driveway has always resided on Fourth Street. 59 N Fourth Street and 70 High Street both have two street frontages and both have fencing on the property. 97 Horner appears to be the only property in the vicinity with three street frontages.

- a) 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.

The Habitat partner family who moved into this home did not have a choice in the location of the home built for their needs. Nor did Habitat create the shape of the lot. The previous home had three frontages. The unusual characteristic of the original home is it faced directly into a wall, approximately 8 feet below the grade of the road, creating a dangerous situation. If there was a car accident in front of the original home, it was indeed possible for a car to land on the home. The new home was set farther away from the wall at a distance of 15+ feet.

- b) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.

Fauquier Habitat will employ a surveyor to create a line of site for the corner of Haiti Street and Horner Street to determine the setback required to see the corner. If the surveyor recommends a reduction in height to 5 feet, Habitat will reduce the height.

- c) **The condition or situation of the property is not of so general or recurring of a nature as to be adopted as an amendment to the Ordinance**

97 Horner Street appears to be the only home with frontage on three different streets.

- d) 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.

The residential use of the property will continue. This cannot change because the land is held in the Virginia Statewide Community Land Trust

- e) The relief or remedy sought by the variance application is not available through a special use permit process that is authorized in the Ordinance or the process for modification to the Zoning Ordinance at the time of the filing of the variance application.

There is no special use permit for this situation. The only option is a variance.



TOWN OF WARRENTON

Department of Community Development

PO BOX 341
WARRENTON, VIRGINIA 20188
http://www.warrentonva.gov
Permittech@warrentonva.gov
(540) 347-2405

Land Development Application

Type of Development [select type(s) below]

Permit # _____

Planning	Zoning		
<input type="checkbox"/> Commission Permit (\$2232)	<input type="checkbox"/> Administrative Appeal	<input type="checkbox"/> Concept Plan Review	<input type="checkbox"/> Record / Vacate Plat
<input type="checkbox"/> Comprehensive Plan Amendment	<input type="checkbox"/> As-Built	<input type="checkbox"/> Easement Plat	<input type="checkbox"/> Site Development Plan
<input type="checkbox"/> Special Use Permit	<input type="checkbox"/> Bond Release/ Reduction	<input type="checkbox"/> Final Plat	<input checked="" type="checkbox"/> Variance
<input type="checkbox"/> Rezoning	<input type="checkbox"/> Bond Extension	<input type="checkbox"/> Preliminary Plat	<input type="checkbox"/> Waiver, Administrative
	<input type="checkbox"/> Boundary Adjustment	<input type="checkbox"/> Re-approval of Plat	<input type="checkbox"/> Waiver/Exception, Legislative

Amendment to Existing Approved Application? If Yes, List Application _____

Project Description

Project Name: Privacy Fencing
 Property Address (if no address, give closest cross street): 57 N. Fourth St Warrenton - formerly 97 Horner St.
 Purpose of Request: _____

Zoning District: _____ Total Acres: _____ Acres for Proposed Use: _____
 Parcel Identification Number(s): 6984-43-9745

Contact Information (Attach separate page if necessary)

All Current Owners

Name & Company: Fauquier Habitat For Humanity
 Address: 98 Alexandria Pike Suite 43 Warrenton 20186
 Phone: 540 341 4952 x106 Email: melanieburch@faquierhabitat.org

All Current Applicants (if different then owner):

Name & Company: Fauquier Habitat For Humanity
 Address: 98 Alexandria Pike Suite 43 Warrenton 20186
 Phone: 540 341 4952 x 106 Email: melanieburch@faquierhabitat.org

Representative (if different then owner/applicant):

Name & Company: Melanie Burch
 Address: _____
 Phone: _____ Email: _____

OWNER(S) AFFIDAVIT (Original Signatures Required)

I have read this application, understand its intent and freely consent to its filing. Furthermore, I have the power to authorize and hereby grant permission for Town of Warrenton officials and other authorized government agents on official business to enter the property to process this application.

APPLICANT(S) AFFIDAVIT (Original Signatures Required)

The information provided is accurate to the best of my knowledge. I acknowledge that all tests, studies, and other requirements of the Town of Warrenton Zoning Ordinance and Subdivision Ordinance and other requirements of review/approval agencies will be carried out at my expense. I understand that the Town may deny, approve or conditionally approve that for which I am applying.

Owner's Signature & Date: Melanie Burch
 Print Owner's Name: Melanie Burch

Applicant's Signature & Date: _____
 Print Applicant's Name: _____



Town of Warrenton, VA

Aug 16, 2023

BZA-23-3

Initial Permit Fee

Board of Zoning Appeals Variance or Appeal

Status: Paid

Became Active: Jul 26, 2023

Invoice: 17205

Completed: Aug 16, 2023

Applicant

Melanie Burch
melanieburch@fauquierhabitat.org
98 Alexandria Pike
Suite 43
Warrenton , VA 20186
540-341-4952 x 106

Primary Location

97 HORNER ST
WARRENTON, VA 20186

Owner:

FAUQUIER HABITAT FOR HUMANITY INC
98 ALEXANDRIA PIKE #43 WARRENTON, VA
20186

Fees

Variance	\$400.00
Total Fees	\$400.00

Payments

Date	Method	Note	Amount
Aug. 16, 2023	Check #3674		\$400.00

Comments

Melanie Burch, Aug 15, 2023

I will bring a check today

Type: DEEDS
Recorded: 10/31/2019 11:43:00 AM
Fee Amt: \$3,417.33 Page 1 of 5
Fauquier County, VA
Gail H Barb Clerk of Circuit Court
File# 2019-00009354

Item 2.

BK 1612 PG 287 - 291

Consideration:	\$778,600.00
Assessment:	\$778,600.00
Grantee Address:	98 Alexandria Pike, Suite 43, Warrenton, VA 20186
Tax Map #:	6984-44-9002-00, 6984-44-8436-000, 6984-43-9745-000, 6984-54-0254-000, and 6984-44-9545-000 & 6984-44-9538-000,
Prepared by:	Patricia A. Woodward, P. O. Box 1037, Warrenton, VA 20188, VSB# 19850
After recording return to:	Cardinal Settlement Services, Inc., 25 Horner Street, Warrenton, VA 20186
Title Insurer:	Fidelity National Title Insurance Company

THIS DEED, made and entered into this 30th day of October 2019, by and between **Eva C. HARRIS**, widowed and unremarried, GRANTOR, and **FAUQUIER HABITAT FOR HUMANITY, INC.**, a Virginia corporation, GRANTEE;

WITNESSETH:

THAT FOR and in consideration of the sum of TEN DOLLARS (\$10.00), cash in hand paid by the Grantee, and other good and valuable consideration, receipt whereof is now acknowledged, the Grantor does now hereby, with GENERAL WARRANTY OF TITLE and ENGLISH COVENANTS OF TITLE in FEE SIMPLE, grant, bargain, sell, and convey unto the Grantee, all of that certain lots or parcels of land, with all rights, ways, easements and improvements thereunto belonging or appurtenant thereto, and more particularly described as follows:

See, Schedule A attached hereto and made a part hereof

Inclusion of the Tax Map Parcel number in this Deed is pursuant to §17.1-252 of the Code of Virginia, 1950, as amended, is not a part of the legal description of the property conveyed, and the Grantor makes no warranty as to its accuracy.

This conveyance is made subject to any restrictions, reservations or easements of record.

WITNESS the following signature and seal:

Eva C. Harris (SEAL)
EVA C. HARRIS

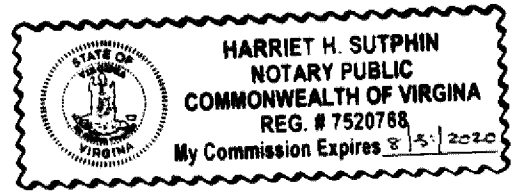
COMMONWEALTH OF VIRGINIA
~~CITY~~/COUNTY OF Fauquier, TO-WIT:

The foregoing document was acknowledged before me this 30th day of October by Eva C. Harris.

My Commission Expires: August 31, 2020

Harriet H. Sutphin
NOTARY PUBLIC

W:\Harris, Eva\Habitat 2019\2019-10-28 Deed_Harris to Habitat.wpd



Schedule A**PARCEL 1 (GPIN 6984-44-9002-000):**

ALL THAT certain lot of land lying and being situated in Warrenton, Fauquier County, Virginia, at the intersection of North Third Street (now known as North Fourth Street), Hayti (Haiti) Street, and Wood Street (now known as Liberty Street) and bounded and described as follows, to wit: Beginning at a post at corner of the Alfred B. Horner and John Tyler lots and running in a Southeastern direction 111 feet to a stone on North Third Street (now known as North Fourth Street); thence along North Third Street (now known as North Fourth Street) in an easterly direction 60 feet to a post at the intersection of said North Third Street (now known as North Fourth Street), Wood Street (now known as Liberty Street) and Hayti (Haiti) Street; thence along said Hayti (Haiti) Street in a Northerly direction 161 feet to a post at corner of Alfred B. Horner lot; thence along said Alfred B. Horner lot in a westerly direction 176 feet to a post in corner of Alfred B. Horner and John Tyler lots to the beginning.

LESS AND EXCEPT therefrom a portion of said property fronting a distance of 42 feet on Haiti Street, conveyed to Lester Robinson by Deed from Carrie W. Parkinson, widow, dated November 28, 1958, and recorded in Deed Book 204 at page 4, among the records of the Clerk's Office of the Circuit Court of Fauquier County, Virginia.

AND BEING the same property conveyed to Harrington W. Harris, by Deed from Harrington W. Harris and Eva C. Harris, dated January 18, 2005, and recorded in Deed Book 1139, at page 941, among the Fauquier County, Virginia land records. Harrington W. Harris died April 2, 2009, devising the subject property in Eva C. Harris by Last Will and Testament recorded in Will Book 243, page 2238 as confirmed by Deed of Confirmation recorded in Deed Book 1549, at page 370, among the records of the Clerk's Office of the Circuit Court of Fauquier County, Virginia.

PARCEL 2 (GPIN 6984-44-8436-000):

ALL THAT certain tract or parcel of land situate on the west side of Haiti Street in the Town of Warrenton, Fauquier County, Virginia, improved by one frame apartment house, bearing Warrenton street numbers 130, 132 and 134, being the same identical property which was conveyed to Ford G. Anderson by deed of Annie H. Green, widow in Deed Book 121 at page 495, among the records of the Clerk's Office of the Circuit Court of Fauquier County, Virginia.

AND BEING the same property conveyed to Harrington W. Harris, Sr. and Eva C. Harris, husband and wife, as tenants by the entirety with the common law right of

survivorship, by Deed from Ethel E. Anderson, widow, and Frances A. Shepherd and Charles Edward Shepherd, Jr., her husband, dated April 25, 1969, and recorded in Deed Book 253 at page 347. Harrington W. Harris, Sr. died April 2, 2009, leaving Eva C. Harris as surviving tenant.

PARCEL 3 (GPIN 6984-43-9745-000):

ALL THAT certain tract or parcel of land containing 0.2133 acres, more or less, situate in the Town of Warrenton, Fauquier County, Virginia, as more particularly described by plat of survey and metes and bounds description prepared by VH&D, Inc., Land Surveyors and Civil Engineers, Warrenton, Virginia, under date of October 13, 1983, said plat of survey and metes and bounds description being recorded in Deed Book 436 at page 248, among the records of the Clerk's Office of the Circuit Court of Fauquier County, Virginia.

AND BEING the property conveyed to Harrington W. Harris, Sr. and Eva C. Harris, husband and wife, as tenants by the entirety with the common law right of survivorship, by Deed from Wendell R. Grant and Shirley M. Grant, husband and wife, dated January 19, 1989, and recorded in Deed Book 611 at page 1265. Harrington W. Harris, Sr. died April 2, 2009, leaving Eva C. Harris as surviving tenant.

PARCEL 4 (GPIN 6984-54-0254-000):

ALL THAT certain lot or parcel of land with the improvements thereon, lying and being situated on Haiti Street in the Town of Warrenton, Fauquier County, Virginia, designated as Lot 7 according to a plat and survey to be found recorded in Deed Book 64 at page 272, among the records of the Clerk's Office of the Circuit Court of Fauquier County, Virginia, containing 5,446 square feet, more or less.

AND BEING the property conveyed to Harrington W. Harris, Sr. and Eva C. Harris, husband and wife, as tenants by the entirety with the common law right of survivorship, by Deed from Virginia C. Coles, dated June 29, 1988 and recorded in Deed Book 599 at page 1760 among the aforesaid county land records. Harrington W. Harris, Sr. died April 2, 2009, leaving Eva C. Harris as surviving tenant.

PARCEL 5 (GPINS 6984-44-9545-000 AND 6984-44-9538-000):

ALL THAT certain lot or parcel of land lying and being situate in the Town of Warrenton in Fauquier County, Virginia, and containing 7,696 square feet, more or less according to plat and survey of R.M. Bartenstein, C.L.S., No. 549, dated December 14, 1954, and being the property designated on said plat and survey as Lot

A, which plat and survey are recorded with a certain deed from May L. Johnson, widow; William Perry Johnson and Elizabeth B. Johnson, his wife; Robert S. Johnson and Elizabeth H. Johnson, his wife, and Willard A. Johnson and Theoling H. Johnson, his wife; to John Hancock, et al, dated April 21, 1955, recorded May 4, 1955, in Deed Book 191, page 96, among the records of the Clerk's Office of the Circuit Court of Fauquier County, Virginia.

SUBJECT TO a 15 foot easement for ingress and egress appurtenant to Lots B and C as described in Deed recorded in Deed Book 197, page 562, among the records of the Clerk's Office of the Circuit Court of Fauquier County, Virginia.

AND BEING THE property conveyed to Harrington W. Harris by Deed from Harrington W. Harris and Charles E. Smith, Sr., dated March 1, 2006, recorded in Deed Book 1205, at page 1887 among the Fauquier County, Virginia land records. Harrington W. Harris died April 2, 2009, devising the subject property in Eva C. Harris by Last Will and Testament recorded in Will Book 243, page 2238 as confirmed by Deed of Confirmation recorded in Deed Book 1549, at page 370, among the records of the Clerk's Office of the Circuit Court of Fauquier County, Virginia.

RECORDED IN CLERK'S OFFICE OF
FAUQUIER ON
Oct 31, 2019 AT 11:43:00 AM
\$779.00 GRANTOR TAX PD
AS REQUIRED BY VA CODE § 58.1-802
STATE: \$389.50 LOCAL: \$389.50
FAUQUIER COUNTY, VA
GAIL H BARB CLERK OF CIRCUIT COURT

Gail H Barb

Doc ID: 009276550003 Type: DEE
 Recorded: 03/22/2023 at 08:17:52 AM
 Fee Amt: \$26.00 Page 1 of 3
 Fauquier County, VA
 Gail H Barb Clerk of Circuit Court
 File# 2023-00001615
 BK **1745** PG **2201-2203**

EXAMINED & RETURNED
 Return to: Fauquier Habitat for Humanity
 P.O. Box 3189
 Warrenton VA 20188

OWNER(S) CERTIFICATE

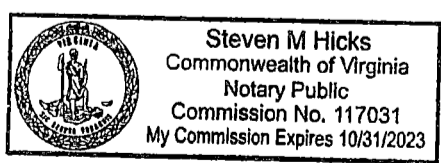
OWNER NAME(S): Fauquier Habitat for Humanity Inc
PO Box 3189
Warrenton VA 20188
 PIN # 6984-43-9745-000
 DATE OF PLAT: 1-27-2023
 PLAT PREPARED BY: Edwin J. Dodd Jr., Certified Land Surveyor
 Address: 16486 Oak Shade Rd Rixeyville, Virginia
 DISTRICT: Center in Fauquier County, Virginia

I/We, the above named owner(s), who acquired the property described in the attached plat by deed dated 10/31/2019, from Eva C Harris, Harrington W. Harris, Harrington W. Harris Sr. which deed is recorded in the Clerk's Office of the Circuit Court of Fauquier County, Virginia, in Deed Book 1612, page 287, is hereby confirmed and submitted for record in the aforesaid Clerk's Office.

Given under my/our hand(s) this 21 day of March 2023
Melanie Burch
 CEO Owner

State of VIRGINIA
 City/County of Fauquier, to-wit:

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that on this 21ST day of MARCH 2023, MELANIE BURCH, PRESIDENT & CEO OF FAUQUIER HABITAT FOR HUMANITY, INC whose name(s) is/are signed to the foregoing writing dated the 21ST day of MARCH 2023, personally appeared and acknowledged the same before me.



Steven M. Hicks
 NOTARY PUBLIC
 PRINTED NAME: STEVEN M. HICKS
 NOTARY REGISTRATION ID# 117031
 MY COMMISSION EXPIRES OCT 31, 2023

Item 2.

- TES:
- THE PARCEL IDENTIFICATION NUMBER (PIN) FOR THE PROPERTY DELINEATED HEREON IS 6984-43-9745. NO TITLE REPORT FURNISHED, THEREFORE ENCUMBRANCES MAY EXIST THAT HAVE NOT BEEN SHOWN.
 - THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED IN FLOOD ZONE "X" AREAS OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN AS DETERMINED BY REFERENCE TO FIRM COMMUNITY - PANEL NO. 51061C0308C, EFFECTIVE FEBRUARY 6, 2008, AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
 - SUB-SURFACE UTILITIES HAVE NOT BEEN DELINEATED HEREON.
 - PARCEL CREATED IN DEED BOOK 436 AT PAGE 248.
 - BOUNDARY INFORMATION IS BASED ON EXISTING LAND RECORDS.
 - SETBACK SHOWN HEREON BASED ON CARTER RUN SITE PLAN, DATED JULY 26, 2022.
 - CURRENT OWNER: FAUQUIER HABITAT FOR HUMANITY, INC. D.B. 1612 PG. 287

**HOUSE LOCATION SURVEY
ON THE PROPERTY OF
FAUQUIER HABITAT
FOR HUMANITY, INC.**

TOWN OF WARRENTON, VIRGINIA

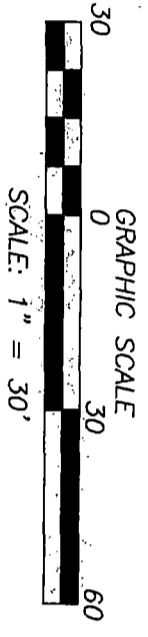
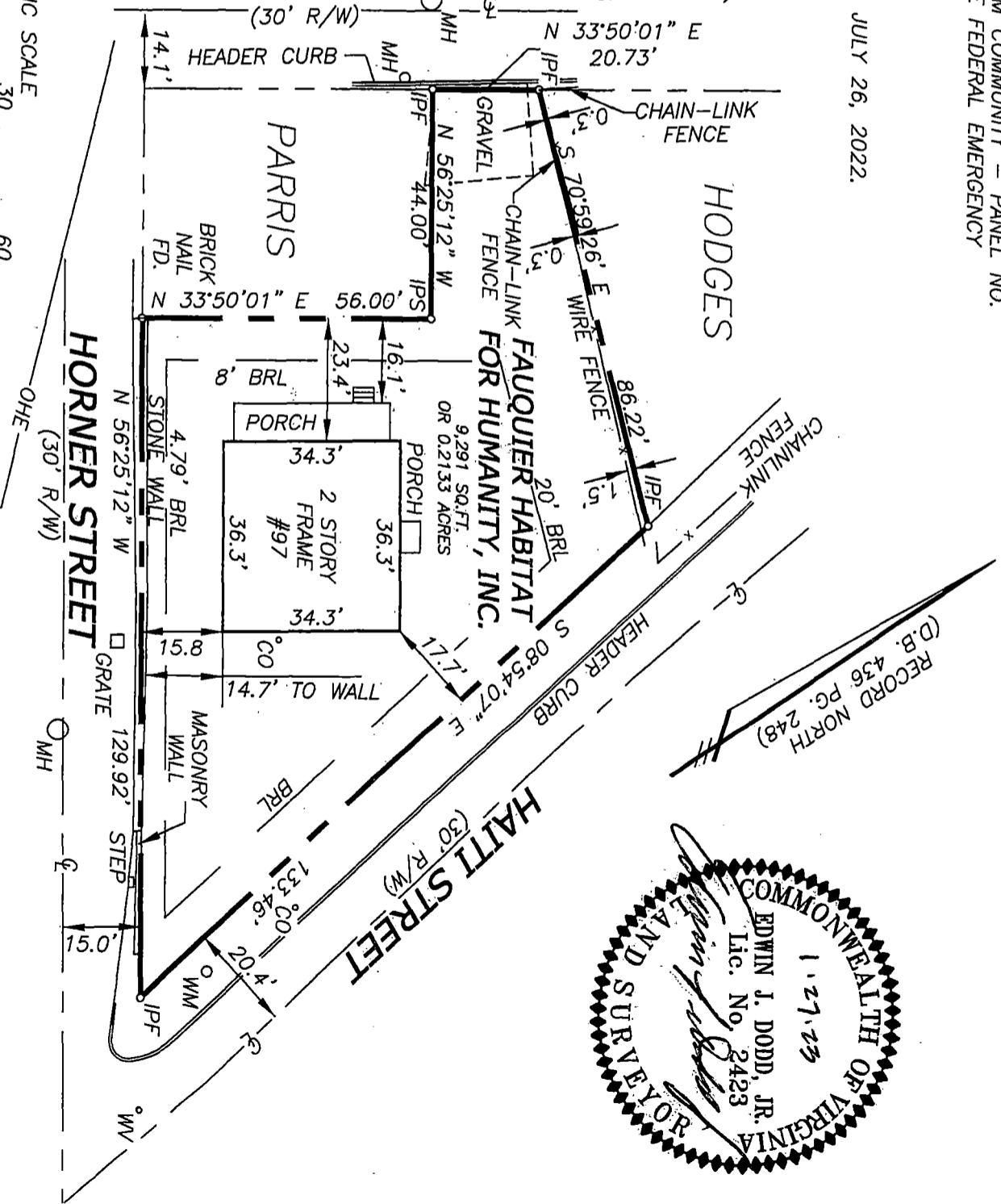
DATE: JANUARY 24, 2022 SCALE: 1" = 30'

DODD & ASSOCIATES, PLLC

16486 OAK SHADE ROAD
RIXEYVILLE, VIRGINIA 22737
(540) 937-9800 OFFICE (540) 937-4031 FAX
WWW.DODDSURVEY.COM
PROJECT NO. 03384-01

- LEGEND:
- IPF - DENOTES IRON PIPE FOUND
 - WM - DENOTES WATER METER
 - WV - DENOTES WATER VALVE
 - MH - DENOTES MANHOLE
 - CO - DENOTES CLEANOUT
 - OHE - DENOTES OVERHEAD ELECTRIC LINE

NORTH FOURTH STREET (PREVIOUSLY NORTH 3RD STREET)



SURVEY PERFORMED FOR:
FAUQUIER HABITAT FOR HUMANITY
P.O. BOX 3189
WARRENTON, VA 20188

Item 2.

RECORDED IN CLERK'S OFFICE OF
FAUQUIER ON
MARCH 22, 2023 at 8:17:52 AM
AS REQUIRED BY VA CODE §58.1-802
STATE: \$0.00 LOCAL: \$0.00
FAUQUIER COUNTY, VA
GAIL H BARB CLERK OF CIRCUIT COURT

Gail H Barb

TOWN OF WARRENTON BOARD OF ZONING APPEALS
POLICY ON REMOTE PARTICIPATION OF MEMBERS

1. Members of the Town of Warrenton Board of Zoning Appeals (“BZA”) may participate from remote locations in meetings where a quorum is physically assembled at a single meeting place when consistent with Virginia law and this policy. (The BZA may hold a virtual meeting, where members of the BZA participate from remote locations without a quorum physically assembled at a single meeting place, only when authorized under Virginia law; this policy applies to such virtual meetings to the extent its provisions are consistent with such law.)
2. The Chair of the BZA is responsible for implementing this policy on remote participation meetings.
3. This policy must be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.
4. Remote participation is subject to the approval of the Chair, appealable to the body as a whole in accordance with Robert’s Rules of Order.
5. On or before the day of a meeting, a member of the BZA wishing to participate remotely must notify the Chair that such member is unable to attend the meeting due to:
 - a. a temporary or permanent disability or other medical condition that prevents physical attendance,
 - b. a medical condition of a member of the member's family requiring the member to provide care that prevents the member's physical attendance;
 - c. the member's principal residence being more than 60 miles from the meeting location identified in the required notice for such meeting; or
 - d. the member being unable to attend the meeting due to personal reasons, in which case the member must identify with specificity the nature of the personal reason.
6. A member’s participation from a remote location will only be approved if the member’s voice is clearly audible to BZA members and citizens at the BZA’s central meeting location and if the member can hear persons speaking into the microphones at that location.
7. If a member’s participation from a remote location is disapproved because such participation would violate this policy, such disapproval must be recorded in the minutes with specificity.

8. Each member’s remote participation due to personal reasons is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.
9. Members participating in person must be physically assembled at the meeting location that was announced in the notice of the meeting or, if no location was specified, at Town Hall.
10. The BZA must record in its minutes all instances of remote participation, and the remote location from which a member participates. The remote location need not be open to the public and may be identified in the minutes by a general description.
11. If participation is approved pursuant to subdivision 5.a. or 5.b. of this Policy, the BZA must include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) a family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 5.c., the BZA must also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location. If participation is approved pursuant to subdivision 5.d., the BZA must also include in its minutes the specific nature of the personal matter cited by the member.

Introduced on _____
Approved on _____

Secretary, Board of Zoning Appeals
Town of Warrenton

Code of Virginia
Title 2.2. Administration of Government
Subtitle II. Administration of State Government
Part B. Transaction of Public Business
Chapter 37. Virginia Freedom of Information Act

§ 2.2-3708.3. Meetings held through electronic communication means; situations other than declared states of emergency

A. Public bodies are encouraged to (i) provide public access, both in person and through electronic communication means, to public meetings and (ii) provide avenues for public comment at public meetings when public comment is customarily received, which may include public comments made in person or by electronic communication means or other methods.

B. Individual members of a public body may use remote participation instead of attending a public meeting in person if, in advance of the public meeting, the public body has adopted a policy as described in subsection D and the member notifies the public body chair that:

1. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance;
2. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;
3. The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
4. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description. If participation is approved pursuant to subdivision 1 or 2, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 3, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location. If participation is approved pursuant to subdivision 4, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

C. With the exception of local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and boards with the authority to deny, revoke, or suspend a professional or occupational license, any public body may hold all-virtual public meetings, provided that the public body follows the other requirements in this chapter for meetings, the public body has adopted a policy as described in subsection D, and:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of § 2.2-3707;
2. Public access to the all-virtual public meeting is provided via electronic communication means;
3. The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the public body as well;
4. A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting, and the public body takes a recess until public access is restored if the transmission fails for the public;
5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting is made available to the public in electronic format at the same time that such materials are provided to members of the public body;
6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
7. No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access it;
8. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of § 2.2-3712;
9. The public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting; and
10. Minutes of all-virtual public meetings held by electronic communication means are taken as required by § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

D. Before a public body uses all-virtual public meetings as described in subsection C or allows members to use remote participation as described in subsection B, the public body shall first adopt a policy, by recorded vote at a public meeting, that shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member

requesting remote participation or the matters that will be considered or voted on at the meeting. The policy shall:

1. Describe the circumstances under which an all-virtual public meeting and remote participation will be allowed and the process the public body will use for making requests to use remote participation, approving or denying such requests, and creating a record of such requests; and
2. Fix the number of times remote participation for personal matters or all-virtual public meetings can be used per calendar year, not to exceed the limitations set forth in subdivisions B 4 and C 9.

Any public body that creates a committee, subcommittee, or other entity however designated of the public body to perform delegated functions of the public body or to advise the public body may also adopt a policy on behalf of its committee, subcommittee, or other entity that shall apply to the committee, subcommittee, or other entity's use of individual remote participation and all-virtual public meetings.

2022, c. [597](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.