

**MINUTES  
KING WILLIAM COUNTY  
BOARD OF ZONING APPEALS  
ZOOM MEETING**

At a regular meeting of the Board of Zoning Appeals, held on April 29, 2020 at 6:30 P.M. in the Board Room of the King William Administration Building via Zoom, the meeting was called to order with the following members:

**Agenda Item 1. Call to Order**

**Agenda Item 2. Roll Call**

**Present:**

Doris White

Michael Nolan (Phoned in at 6:37 P.M.)

Sergio Tassinari

Benjamin Shumaker, Chairman

**Absent:**

Laura Nunnally

**Staff Present:**

Ron Etter, Director of Community Development

Sherry Graham, Zoning Administrator

Krista Cole, Planning Secretary

**Agenda Item 3. Review and Adoption of Meeting Agenda**

Chairman, Shumaker stated that he would like to add an item 7b to the meeting agenda. Mr. Shumaker requested a motion to approve the meeting agenda. Mr. Sergio Tassinari made a motion and the motion was approved by Ms. Doris White.

**The vote was unanimous on this motion.**

**Agenda Item 4. Review and Approval of Minutes**

Chairman, Shumaker requested the following amendments to the February 19, 2020 meeting minutes:

Agenda Item 2. Roll Call

Staff Present:

Add: Staff also retained general counsel Christopher McKenzie of the law firm Sands Anderson.

Agenda Item 6a. V-01-20 Byrd-Garnett

To follow with the flow of the Rules of Procedure section IV. Procedure for hearing Cases item G. At the hearing the order shall be as follows.

Add:

a. **Presentation of Variance request:**

Sherry Graham -

**In brief:**

This was a request from Bryd-Gardnett to have a 7ft reduction in the required side set back of 25ft so they can build a 12 x 12 addition.

On 2/23/1999 a special exception was giving to create a substandard lot of 1.42 acres. This is a family piece of property.

Due to the narrowness of the property and the required setback needed it would make it very difficult to build the addition.

**Board Questions:**

Mr. Nolan asked what are the required setbacks on the surrounding property for the R1 Zone?

Mr. Etter responded 15 to 25 Feet depending on the Lot size.

b. **Statement of applicant** - The applicants did not wish to make a statement:

c. **Statements of others persons in Favor or Opposed.**

Change: There being no one to speak, there was no Public Hearing for V-01-20

(word usage as we held a Public Hearing) Recommend we change this to:

**There was no public input during the "Statements of other persons in favor or opposed V-01-20.**

d. **Applicants rebuttal** – No rebuttal by the applicant

Call for Motion:

Revised the section of motion by Michael Nolan

By Michael Nolan - Considering no objections have been raised by the neighbors, the size of the lot, the business effect the variance would have on anybody else, I move we approved the application subject to the one condition noted in the report, that all building and zoning permits would be obtained before Feb 21, 2022.

Mrs. Doris White seconded the motion.

Add:

During Discussion

Chairman, Benjamin Shumaker stated he really didn't understand what the hardship was and wanted to hear a little bit more about the specific hardship.

Sherry Graham further explained, it was a long narrow lot, and due to the location of the septic, well and electrical meter this would be the most cost effective plan.

The vote was tied 2 –2.

Revise:

After input by the county attorney on the options the board can take, Chairman Benjamin Shumaker asked the owners if they would like to continue the case to March.

Agenda Item 6b. A-01-20 The Fix Ministry

Add:

Chairman Benjamin Shumaker addressed the rules of procedure as well as imposed time limits.

a. Presentation of Appealed Determination

Modify add:

Ron Etter – Currently the property is permitted for Single family dwelling.

The Fix Ministries asked to expand from 8 to 12 more beds. Looking at the current use of the property as a Group Home, based on the letter we received on the determination, they are not permitted as a Group Home or as Church Use at this time.

Ron explained that staff was concerned with the fact of having 20 patients in long-term residences, of what is currently permitted as single-family dwelling. Other concerns were with the septic system originally approved for a single-family dwelling supporting 20 to 25 people living there. Going from a residence to a church there are different rules.

Other concerns from a zoning standpoint, The Fix Ministry's work is with people with serious physical mental emotional problems related to their addictions.

This is a treatment program, It is not a group home or a church and needs to meet higher standards.

Marker 29:30

Staff has discussed this before and this could be accomplished through a text amendment to the board of supervisor as a permitted use, but as our ordinances stands now, the use of the property for 20 people treatment is not permitted. Staff supports our initial zoning determination to deny this appeal.

Staff has asked the county attorney to provide some additional information.

Marker 30-39

Mr. Christopher McKenzie covered some of the theme and law concerning the appeal process, and details on principle use of the property verses the owner of the property. The Fixed Ministry was specific in the request of their determination and stated they think they should be classified as a church or Sunday school. He stated the question before the board is "What is the principle use of this property?" What is it being used for predominately?

Marker 40:

Add:

#### Board Questions

Chairman Benjamin Shumaker asked Mr. Etter for some background information on their interaction that took place with The Fix from the Summer of 2018 to when the letter was received from the Fix in October 2019.

Marker 48: Chairman Benjamin Shumaker asked Mr. Etter – Did the Fix approach the county asking what it would take to establish a Group Home or did they mention whether it was a discipleship program or Faith Based or Church?

Mr. Etter responded that they were looking to expand the number of beds from 8 to 20.

Chairman Benjamin Shumaker ask for clarification as to whether the Fix ever referred to the occupants as patients.

Mr. McKenzie stated all their letters refer to the occupants as students.

Add after 4<sup>th</sup> paragraph "Mr. Michael Nolan expressed":

Marker 54:

Mr. Christopher McKenzie – also responded and stated based on all materials The Fix are the contractor purchasers of the property– and were doing their due diligence prior to purchasing.

Mr. Mike Nolen asked if the County notified the property owner.

Mr. Christopher McKenzie responded stated There is some relationship of the buyer and the owner is very aware. The question tonight is this program a church within the definition of the zoning ordinance.

Marker 1:00

Mr. Ron Etter noted: My determination was as a family dwelling and they could not have a 20 bed treatment facility.

b. Statement of applicant:

Marker 1:03

Modify: Ms. Jaime Wisegarver section

The Fix Asked one question – is the Fix current use permitted by right per “as a church” under the county’s ordinance. The zoning administrator Mr. Etter response by letter to that request, were focused on the current occupancy permits and zoning permits had not been obtained correctly.

The Fix’s model does not fit in as a Group Home residential facility for the ill or disabled persons.

The request for the zoning determination was prompted by the Fix’s desire to get all the permitting issues right. The request for the determinations was step one. Once you have that then additional permits and occupancy is the second step.

The fix is a Non Profit organization – The Fix holds worship services on Sat, Sundays, Bible Studies Tuesdays and Wednesdays, publishes notices of those services in news papers, Facebook. Services include baptism, children services things associated with a church. It is open to the public.

Marker 1:14

Board Questions

Add after Pastor Swezey paragraph 10

Chairman Benjamin Shumaker – Asked Pastor Swezey to give a summary of their interaction with the county over the last two years ago. He indicated when they original sent the letter we were looking for advice. We considered ourselves as a monastery.

Add after Mr. Michael Nolan expressed his concerns (paragraph 10)

Pastor Swezey responded:

Part of the out reach is the discipleship program, using the model based off Teen Challenge.

1:34

Add:

Chairman Benjamin Shumaker asked if there were any laws that govern what a church can or cannot do, such as a food bank, service stations.

Mrs. Jaime Wisegarver responded - Daycares, foodbanks, and others can be considered accessory uses. A grocery store is not commonly used as a church and would be a stretch.

Add:

- c. Statements of other persons in favor of the county's determination

Change

D. Haney to "David Haney adjacent Land Owner" -

Add:

- d. Statements by those apposed of the county's determination.

Add after The Public Hearing was closed

Add:

- e. Applicants Rebuttal

Add to Ms. Jamie Wisegarver at the beginning.

The zoning determination suggested the Fix is a Group Home, which everyone agrees is not.

Board Questions:

Mr. Michael Nolan – What was Fix asking for and what was the determination.

Mr. Christopher McKenzie responded - The ask was is the use of the property as a church or something in that category. The determination the Fix received was the County did not think the principle use of the property is a church or that category.

Jamie Wisegarver – The determination letter that we got in the Fix's opinion did not address the question that was asked, but instead made references to the group home designation and permitting and occupancy permits which all will be dealt with later down the road as Mr. McKenzie explained.

Mr. Michael Nolan restated his question.

Ms Jamie Wisegarver responded:

The Fix is asking the BZA find it is a church and the use of the property is a church permitted by right. The Fix is not expanding the footprint of the building. Once you have the classification as the church the bed limitations goes out the window, then permitting would be left.

Mr. Christopher McKenzie – is the principle use a church – you are questioning is it an accessory use. Is the program customary incidental and allowed as a accessory use?

Ms. Jamie Wisegarver – the fix is a church, its disciple ship program is part of the church and ministry, once you make the determination that the Fix is a church, it is no longer limited to 8 beds, but needs to be compliant to building codes.

Mrs. Laura Nunnally commented that if this is a church, the safety of this building is huge, but goes outside what we are discussing tonight. If this was another organized church, adding to this would be another whole separate issue.

Modify:

Chairman, Benjamin Shumaker requested a motion to approve the zoning determination. Chairman Benjamin Shumaker called for a motion to approve, deny or modify the determination:

#### Agenda Item 9a.

Amend after 1<sup>st</sup> paragraph –

There will be a community work group then we are going to release it out to all the Board, BZA, EDA hopefully be public after the 1<sup>st</sup> of March.

After all feedbacks and compiling are done, community feed backs, then to the Board sometime June or July. We plan to jump right into the Comprehe

Chairman, Shumaker requested a motion to approve the meeting minutes with the amendments that he requested. Ms. Doris White made a motion and the motion was seconded by Mr. Sergio Tassinari.

#### **Agenda Item 5. Public Comment Period**

NONE

#### **Agenda Item 6. Public Hearing**

NONE

#### **Agenda Item 7. Unfinished Business**

7a. The applicants stated that the hardship is that it is currently hard for wife to get in and out of the house.

Chairman, Shumaker requested a motion to approve Variance -01-20. Mr. Sergio Tassinari made a motion and the motion was seconded by Mr. Michael Nolan.

#### **Members were polled:**

Mr. Nolan

Ms. White

Mr. Tassinari

Mr. Shumaker

**The vote was unanimous on this motion.**

**Agenda Item 8. New Business**

NONE

**Agenda Item 9. Staff and/or Committee Reports**

9a. Mr. Ron Etter told the Board that the Zoning Ordinance should be wrapped up by May 5, 2020. He also stated that following the Ordinance Draft we will seek public participation and then after the Zoning Ordinance, we would move ahead to the Comprehensive Plan.

Chairman, Shumaker extended a thank you to Krista Cole, Secretary for the meeting minute amendments and also stated that the Zoom meetings are very convenient and he encourages everyone to join them.

**Agenda Item 10. Adjourn**

Chairman, Shumaker requested a motion to adjourn. The motion to adjourn was made by Mr. Nolan and was seconded by Mr. Tassinari.

**The meeting adjourned at 6:48 P.M.**

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**Chairman, Benjamin Shumaker**

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**Secretary, Krista Cole**