CITY OF CHARLES TOWN
BOARD OF ZONING APPEALS
AGENDA • DECEMBER 19, 2023

BZA Meeting **COUNCIL CHAMBERS** **7:00 PM**
101 E Washington Street, Charles Town, WV 25414

I. CALL TO ORDER

II. DETERMINATION OF QUORUM

III. APPROVAL OF MINUTES

III.1 : Draft Minutes of September 19, 2023
DRAFT September 2023 minutes.docx

III.2 : Draft Minutes of October 17, 2023
DRAFT October 2023 minutes.docx

IV. APPROVAL OF FINDINGS OF FACTS AND CONCLUSIONS OF LAW

IV.1 : BA2023-04: Draft Findings of Fact
BZA Findings & Conclusions 2023-04.pdf

IV.2 : BA2023-05: Draft Findings of Fact
BZA Findings & Conclusions 2023-05.pdf

V. PUBLIC HEARINGS

VI. CONTINUED CASES

VII. OTHER BUSINESS

VII.1 : 2024 Calendar
2024-Board-of-Zoning-Appeals-DRAFT2.docx

VIII. ADJOURNMENT

IX. NOTICE: The Public May View the Meeting Live by Clicking on the Event Link at:

https://www.charlestownwv.us/government/agendas-and-minutes/

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 12/19/23
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

Draft Minutes of September 19, 2023

ATTACHMENTS:

- DRAFT September 2023 minutes.docx

CITY OF CHARLES TOWN

BOARD OF ZONING APPEALS

MINUTES • SEPTEMBER 19, 2023

BZA Meeting **COUNCIL CHAMBERS** **7:00 PM**

101 East Washington Street, Charles Town, WV 25414

1. CALL TO ORDER

Present: Locke Wysong, Chair
Christopher Cox
Jim Thomas

Absent: Patrick Kratovil

Staff: Attorney Mike Funk
James Newman, Zoning Administrator
Kim Crosson, Permit Technician – attended virtually

2. DETERMINATION OF QUORUM

3. APPROVAL OF MINUTES

3.1: Minutes – April 18, 2023

3.2: Minutes – August 15, 2023

Minutes were tabled due to lack of members.

4. APPROVAL OF FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Draft Findings of Fact were tabled due to lack of members who attended the previous meetings.

5. PUBLIC HEARINGS

5.1: BA2023-04 – Eagle Avenue – Variance Request

Staff gave a presentation.

Chair: Any public comment received?

Staff: No.

Mr. Cox: Are the four properties listed in the staff report residential?

Staff: Yes.

Applicant: Confirmed the four properties listed in the staff report are residences. These variances will allow for improvements of a vacant lot and add housing stock to the City. This is a double-fronted lot.

Staff: No public comment received and no members of the public in attendance.

Motion to close the public hearing:

RESULT:	**Approved**
MOVER:	Cox
SECONDER:	Thomas
AYES:	Wysong, Cox, Thomas

Members enter into private discussion.

Motion to resume public hearing:

RESULT:	**Approved**
MOVER:	Thomas
SECONDER:	Cox
AYES:	Wysong, Cox, Thomas

Returned to public session at 7:48 pm.

Motion to approve the three variance requests:

RESULT:	**Approved**
MOVER:	Cox
SECONDER:	Thomas
AYES:	Wysong, Cox, Thomas

6. CONTINUED CASES

None.

7. OTHER BUSINESS

None.

8. ADJOURNMENT

RESULT:	**Approved**
MOVER:	Cox
SECONDER:	Thomas
AYES:	Wysong, Cox, Thomas

Meeting adjourned at 7:50 pm.

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 12/19/23
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

Draft Minutes of October 17, 2023

ATTACHMENTS:

- DRAFT October 2023 minutes.docx

CITY OF CHARLES TOWN

BOARD OF ZONING APPEALS

MINUTES • OCTOBER 17, 2023

BZA Meeting **COUNCIL CHAMBERS** **7:00 PM**

101 East Washington Street, Charles Town, WV 25414

1. CALL TO ORDER

Present: Locke Wysong, Chair
Christopher Cox
Jim Thomas
Patrick Kratovil

Staff: Attorney Mike Funk
James Newman, Zoning Administrator

2. DETERMINATION OF QUORUM

3. APPROVAL OF MINUTES

3.1: Minutes – April 18, 2023

RESULT:	**Approved**
MOVER:	Thomas
SECONDER:	Kratovil
AYES:	Wysong, Cox, Thomas, Kratovil

3.2: Minutes – August 15, 2023

RESULT:	**Approved**
MOVER:	Cox
SECONDER:	Kratovil
AYES:	Wysong, Cox, Thomas, Kratovil

4. APPROVAL OF FINDINGS OF FACTS AND CONCLUSIONS OF LAW

BA2023-01, BA2023-02, BA2023-03 were approved concurrently:

RESULT:	**Approved**
MOVER:	Kratovil
SECONDER:	Thomas
AYES:	Wysong, Cox, Thomas, Kratovil

5. PUBLIC HEARINGS

5.1: BA2023-05 – Wall Street – Variance requests by Mark Roper

Staff gave a presentation.

No questions for staff.

Applicants Representative Seth Rivard: Lots will be at least 100 ?. deep. This is generally in conformance with most older lots in the City. There is steep topography on site; building four homes would allow for more grading than just building one or two homes that would loom over the neighborhood. Comprehensive Plan calls for infill and reduc?on of vacant homes, housing choice.

Applicant Mark Roper: Carrying on family legacy of investing in community. Units to be affordable rentals.

BZA- Thomas: Setbacks not affected by variances? – Applicant: Correct. No need for setback variances.

BZA-Cox: Verifica?on that no setback variances will be requested: Applicant: Correct.

Cox-Off-street parking to be provided? Applicant: Yes.

Cox-Single-family single story homes to be developed on lots? – Applicant: Yes.

A? orney Funk: Do the rear lot lines taper from each other or are they in-line? Applicant: Unsure. Survey will provide clarity.

Motion to go into deliberation at 7:22pm:

RESULT:	**Approved**
MOVER:	Thomas
SECONDER:	Kratovil
AYES:	Wysong, Cox, Thomas, Kratovil

Members enter private discussion.

Motion to resume public hearing at 7:45pm:

RESULT:	**Approved**
MOVER:	Thomas
SECONDER:	Kratovil
AYES:	Wysong, Cox, Thomas, Kratovil

Mo?on by Cox to approve variances as presented subject to two condi?ons:

1. That the lots to be created be substan?ally similar in size to what was presented in the applica?on
2. That the exis?ng parcels have their widths changed via a boundary line adjustment

Motion to approve the three variance requests:

RESULT:	**Approved**
MOVER:	Cox
SECONDER:	Kratovil
AYES:	Wysong, Cox, Thomas, Kratovil

6. CONTINUED CASES

None.

7. OTHER BUSINESS

None.

8. ADJOURNMENT

RESULT:	**Approved**
MOVER:	Thomas
SECONDER:	Kratovil
AYES:	Wysong, Cox, Thomas, Kratovil

Meeting adjourned at 7:47 pm.

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 12/19/23
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

BA2023-04: Draft Findings of Fact

ATTACHMENTS:

- BZA Findings & Conclusions 2023-04.pdf

BEFORE THE BOARD OF ZONING APPEALS
OF THE CITY OF CHARLES TOWN, WEST VIRGINIA

In re: Docket No. BA 2023-04 – Application for Variances by Mark Roper

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

This matter came before the Board of Zoning Appeals at its general meeting held on the 19th day of September, 2023, for public hearing upon the application for four (4) Variances filed by Mark Roper (the "Applicant"). The subject real property is owned by Lutman Properties, LLC. Board members present were Chairman C. Locke Wysong, Jr., James Thomas, Jr., and Christopher Cox, being a quorum. Also present were the City's Zoning/Subdivision Administrator, James Newman, the City's Permit Technician, Kim Crosson, and the City's legal counsel, Michael Funk.

From a review of the record and confirmation by staff upon request, the Board found that proper notice was given of this hearing by publication and posting of the subject real property in accord with the Charles Town Zoning Ordinance.

The Applicant, Mark Roper, came before the Board requesting four (4) Variances pursuant to **Sections 1321.10(D)(4) and 1321.11(E) of the Zoning Ordinance** with respect to: (i) the Minimum Lot Size of 10,000 square feet for newly created single-family detached dwellings; (ii) the Minimum Lot Width of 70 feet for newly created single-family detached dwellings; (iii) the Minimum Side Yard Setback of 10 feet; and (iv) the Minimum Rear Yard Setback of 20 feet, all specified in **Section 1322.11, Old Town Residential (OT-R) District**, and **Table 1322.11, OT-R District Bulk and Area Regulations, of the Zoning Ordinance**. The subject real property is a vacant parcel located in the Old Town Residential (OT-R) District

on Eagle Avenue and extending to the right-of-way for Davenport Street and is designated as Tax Parcel 33 on Tax Map 1 in Charles Town Corporation.

The Board first heard the presentation of the City's Zoning/Subdivision Administrator, James Newman, who reviewed the contents of the written report of the City's staff, a copy of which is contained in the Agenda Packet for the meeting and made part of the record in this matter, and explained the basis of staff's determination that the four (4) Variances sought by the Applicant satisfy the requirements of Section 1322.11(E)(3) of the Zoning Ordinance. Mr. Newman noted that: (i) the Applicant proposes to divide the subject real property into two (2) separate parcels – one fronting on Eagle Avenue and the other fronting on the Davenport Street right-of-way; (ii) the subject real property is 175 feet long and 34 feet wide; (iii) each of the two (2) parcels resulting from division of the subject real property will have a width (frontage) of 34 feet and a depth of 87 ½ feet; (iv) the Applicant's application requests a reduction in the Minimum Lot Size of 10,000 square feet to 2,975 square feet; (v) the application requests a reduction in the Minimum Lot Width of 70 feet to 34 feet; (vi) the application requests a reduction in the Minimum Side Yard Setback of 10 feet to 7 feet; (vii) the application requests a reduction in the Minimum Rear Yard Setback of 20 feet to 15 feet; (viii) four (4) other parcels in the neighborhood are of similar size as that of the proposed parcels; (ix) the width of the proposed parcels, 34 feet, is the same as that of the existing parcel; and (x) side yard setbacks in the neighborhood appear to average between 5 feet and 10 feet.

The Board next presented questions to Mr. Newman. Board member Cox asked whether residences are located on the four (4) other parcels in the neighborhood of similar size as that of the proposed parcels and Mr. Newman confirmed that the structures located on those four (4) parcels appear to be residences. The Board had no further questions for Mr. Newman.

The Applicant's representative, Seth Rivard, next was sworn and testified. Mr. Rivard

stated that: (i) as reflected in the aerial image included with the application, four (4) homes in the neighborhood are located on small half-size lots, and such properties create no adverse impacts; (ii) the proposed parcels will provide sufficient light, air, and open space and satisfy the intent of the Zoning Ordinance; and (iii) the division of the subject real property and construction of two (2) residences on the resulting two (2) parcels will contribute to the inventory of housing stock, not impact the safety or welfare of the public, provide a reasonable use of the existing double-frontage parcel, and provide infill development and elimination of vacant lots as sought in the City's Comprehensive Plan.

The Board had no questions for Mr. Rivard.

No members of the public or aggrieved parties submitted comment to staff or appeared to make public comment.

Upon completion of the taking of testimony and argument, the Board closed the public hearing and adjourned into executive session for deliberation.

After completing its deliberation and returning to open session, by motion duly made by Board member Cox and seconded by Board member Thomas, the Board determined, by a vote of three (3) in favor and zero (0) opposed, that, in accordance with Section 1321.11(E)(3) of the Zoning Ordinance, the requested four (4) Variances should be granted, as presented, for the reasons set forth below.

FINDINGS OF FACT

The Board hereby finds as follows:

1. The four (4) Variances, and the two (2) parcels that will result from the contemplated division of the subject real property, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents. The first requested

Variance is for reduction of the Minimum Lot Size of 10,000 square feet to 2,975 square feet for the resulting two (2) parcels, which lot size is consistent with the size of other parcels in the neighborhood that do not create adverse effects. The second requested Variance is for reduction of the Minimum Lot Width of 70 feet to 34 feet for the resulting two (2) parcels. The existing parcel is 34 feet in width and its division will not decrease that width for the two (2) resulting parcels. Frontage of 34 feet is similar to the existing pattern of development in the neighborhood. The third requested Variance is for reduction of the Minimum Side Yard Setback from 10 feet to 7 feet for the resulting two (2) parcels, which setback is consistent with that of other parcels in the neighborhood. The fourth requested Variance is for reduction of the Minimum Rear Yard Setback from 20 feet to 15 feet for the resulting two (2) parcels. Reduction of the rear yard setback will permit additional building space for a dwelling and may allow additional space for a driveway or garage access.

2. The four (4) Variances arise from special conditions or attributes which pertain to the subject real property and which were not created by the Applicant. The Applicant has not created the special conditions that the requested Variances address. The Variances are requested because of the narrow and through-lot characteristics of the subject real property. Absent relief from the required Minimum Side Yard Setback of 20 feet, a residence of only 14 feet in width could be located on the 34-foot-wide parcels.

3. The four (4) Variances will eliminate an unnecessary hardship and permit a reasonable use of the land. In the immediate vicinity of the subject real property, numerous lots are of less than 10,000 square feet, lot widths average around 34 feet, and side yard setbacks average less than 10 feet. The proposed Variances will allow for parcels that are in keeping with the established pattern of development and permit reasonable use of the land.

4. The four (4) Variances will allow the intent of the Zoning Ordinance to be

observed and substantial justice done. As set forth in the Zoning Ordinance, the "purpose of the OT-R District is to recognize existing and older residential neighborhoods within the City of Charles Town that are characterized as having smaller Lots, smaller Setbacks, traditional grid Street pattern and access by Street or alley." Minimum lot size and lot width, in conjunction with setback requirements, are intended to ensure adequate space for dwellings and ingress/egress, fresh air, natural light, fire breaks, and privacy. The four (4) Variances will allow for sensitively designed infill on a small lot within a zoning district characterized by small lot sizes. No negative impacts to adjacent property owners or the public are anticipated.

5. The written report of Staff methodically details precise reasons why the four (4) Variances should be granted in accord with the requirements of 1321.11(E)(3) of the Zoning Ordinance, which written report has been carefully reviewed and considered by the Board, and the Board hereby adopts such reasons in their entirety and incorporates the same herein.

CONCLUSIONS OF LAW

Based upon the foregoing findings and for the reasons stated herein and based upon staff's recommendations, testimony presented, information contained in the Agenda Packet, and the discussion on the record, the Board, by a vote of three (3) in favor and zero (0) opposed, determines that each of Applicant's requested four (4) Variances satisfies the requirements of Section 1321.11(E)(3) of the Zoning Ordinance and should be granted. The Board hereby certifies that the four (4) Variances granted are the minimum variances that will make possible the reasonable use of the subject real property.

WHEREFORE, the Board hereby GRANTS the requested four (4) Variances, as presented and in contemplation of future division of the subject real property into two (2)

separate parcels, to: (i) reduce the Minimum Lot Size from 10,000 square feet to 2,975 square feet for the resulting two (2) parcels; (ii) reduce the Minimum Lot Width from 70 feet to 34 feet for the resulting two (2) parcels; (iii) reduce the Minimum Side Yard Setback from 10 feet to 7 feet for the resulting two (2) parcels; and (iv) reduce the Minimum Rear Yard Setback from 20 feet to 15 feet for the resulting two (2) parcels.[1]

This Decision is entered as of the date set forth below. Any person adversely affected by this Order may appeal same by Petition to the Circuit Court of Jefferson County within thirty (30) days of receipt hereof.

Entered

C. Locke Wysong, Jr., Chairman

1 In reviewing an application, the Board considers as true and accurate the representations of factual circumstances contained in the application and supporting documentation (the "Application Packet"). No action or decision of the Board shall be deemed its verification of any such representation or its approval of any conditions that actually exist but are not accurately represented in the Application Packet.

Except as expressly provided otherwise herein, the Board's actions and decision are (i) premised and conditioned upon the truth and accuracy of the representations contained in the Application Packet and (ii) strictly limited to the uses, structures, and undertakings proposed for the subject real property in the Application Packet.

The Applicant/Owner is responsible for ascertaining all relevant facts prior to undertaking activities upon the subject real property. In the event of uncertainty, the Applicant/Owner is advised to obtain an accurate survey of the subject real property, seek legal advice, or take other action, as appropriate, to resolve the uncertainty before undertaking activities upon the subject real property. Failure to do so is at the risk of the Applicant/Owner.

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 12/19/23
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

BA2023-05: Draft Findings of Fact

ATTACHMENTS:

- BZA Findings & Conclusions 2023-05.pdf

BEFORE THE BOARD OF ZONING APPEALS
OF THE CITY OF CHARLES TOWN, WEST VIRGINIA

In re: Docket No. BA 2023-05 – Application for Variances by Mark Roper

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

This matter came before the Board of Zoning Appeals at its general meeting held on the 17th day of October, 2023, for public hearing upon the application for two (2) Variances filed by Mark Roper (the "Applicant"). The subject real property is owned by Mark Roper Construction, LLC. Board members present were Chairman C. Locke Wysong, Jr., James Thomas, Jr., Christopher Cox, and Patrick Kratovil, being a quorum. Also present were the City's Zoning/Subdivision Administrator, James Newman, and the City's legal counsel, Michael Funk.

From a review of the record and confirmation by staff upon request, the Board found that proper notice was given of this hearing by publication and posting of the subject real property in accord with the Charles Town Zoning Ordinance.

The Applicant, Mark Roper, came before the Board requesting two (2) Variances pursuant to **Sections 1321.10(D)(4) and 1321.11(E) of the Zoning Ordinance** with respect to: (i) the Minimum Lot Size of 10,000 square feet for newly created single-family detached dwellings; and (ii) the Minimum Lot Width of 70 feet for newly created single-family detached dwellings, both specified in **Section 1322.11, Old Town Residential (OT-R) District**, and **Table 1322.11, OT-R District Bulk and Area Regulations, of the Zoning Ordinance**. The subject real property consists of two (2) vacant parcels located in the Old Town Residential (OT-R) District on the southeastern side of Wall Street between South Samuel Street and South Beckwith Street and designated as Tax Parcels 45 and 45.1 on Tax Map 6 in Charles Town

Corporation.

The Board first heard the presentation of the City's Zoning/Subdivision Administrator, James Newman, who reviewed the contents of the written report of the City's staff, a copy of which is contained in the Agenda Packet for the meeting and made part of the record in this matter, and explained the basis of staff's determination that the two (2) Variances sought by the Applicant satisfy the requirements of Section 1322.11(E)(3) of the Zoning Ordinance. Mr. Newman noted that: (i) the subject real property consists to two (2) parcels – one being an inside lot having frontage of 112 feet, more or less, on Wall Street and extending back 100 feet, more or less, and the other being a corner lot at the intersection of Wall Street and South Beckwith Street having frontage of 86 feet on Wall Street and extending back 106 feet; (ii) the Applicant proposes to adjust the boundary line between the two (2) existing parcels and then divide the subject real property to result in four (4) separate parcels, each with a width (frontage on Wall Street) of approximately 49 ½ feet, a depth of approximately 100 feet, and a lot size of approximately 5,070 square feet; (iii) the Applicant's application requests a reduction in the Minimum Lot Size of 10,000 square feet to approximately 5,070 square feet for each of the resulting four (4) parcels; (iv) the application requests a reduction in the Minimum Lot Width of 70 feet to approximately 49 ½ feet for each of the resulting four (4) parcels; (v) seven (7) other parcels in the immediate neighborhood of the subject real estate have lot sizes less than the requested lot size of 5,070 square feet; and (vi) seven (7) other parcels in the immediate neighborhood of the subject real estate have lot widths less than the requested lot width of 49 ½ feet.

The Board had no questions for Mr. Newman.

The Applicant's representative, Seth Rivard, next was sworn and testified. Mr. Rivard stated that: (i) the subject real property would, by boundary line adjustment and division, be

reconfigured into four (4) separate parcels on which four (4) one-story single-family residences will be constructed; (ii) off-street parking is to be provided for the four (4) parcels; (iii) standard city lots are 50 feet by 100 feet, consistent withh what the Applicant proposes; (iv) development of the four (4) parcels pursuant to grant of the two (2) Variances will meet the purposes and intent of the Zoning Ordinance by providing reasonable separation of space to allow adequate light, air, and activity on the parcels, permitting development consistent and compatible with the existing development pattern, providing adequately sized parcels that will not result in adverse impacts, permitting terracing of dwellings to increase neighborhood compatibility, right-sizing the parcels to the neighborhood, and permitting reasonable use of the land and substantial justice; and (v) granting the two (2) Variances will meet goals of the City's Comprehensive Plan by accomplishing infill development, eliminating vacant lots in the community, and adding to the housing stock.

The Applicant, Mr. Roper, next addressed the Board and explained generally his continuing efforts to invest in and develop the community he lives in.

The Board next presented questions to Mr. Rivard. Board member Thomas asked for confirmation that Variances were requested only with respect to lot size and lot width and that no Variances from required minimum setbacks would be sought, and Mr. Rivard confirmed the same. Board member Cox asked for confirmation that no Variances from minimum required setbacks are anticipated, which Mr. Rivard confirmed. Board member Cox asked how off-street parking is to be provided. Mr. Rivard explained parking would be provided on each parcel similar to a townhome situation but with wider driveways. Board member Cox asked for confirmation that single-story single-family residences are to be constructed, which Mr. Rivard confirmed. Mr. Funk asked whether, given that the depths of the two parcels comprising the subject real property are described as having different depths of 100 feet and 106 feet, the rear

lines of such parcels would align. Mr. Rivard produced a plat provided to staff that reflects alignment of the rear lines of the two parcels, and further noted that Mr. Roper owns all parcels adjoining such rear lines in the event further adjustment of boundary lines was necessary due to a discrepancy.

No members of the public or aggrieved parties submitted comment to staff or appeared to make public comment.

Upon completion of the taking of testimony and argument, the Board closed the public hearing and adjourned into executive session for deliberation.

After completing its deliberation and returning to open session, by motion duly made by Board member Cox and seconded by Board member Thomas, the Board determined, by a vote of four (4) in favor and zero (0) opposed, that, in accordance with Section 1321.11(E)(3) of the Zoning Ordinance, the requested two (2) Variances should be granted, as presented, for the reasons set forth below.

FINDINGS OF FACT

The Board hereby finds as follows:

1. The two (2) Variances, and the four (4) parcels that will result from the contemplated adjustment and division of the subject real property, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents. The first requested Variance is for reduction of the Minimum Lot Size of 10,000 square feet to 5,070 square feet for the resulting four (4) parcels, which lot size is greater than the size of other parcels in the neighborhood that do not create adverse effects. The second requested Variance is for reduction of the Minimum Lot Width of 70 feet to 49 ½ feet for the resulting four (4) parcels, which lot width is greater than the width of other parcels in the neighborhood that do not create

adverse effects.

2. The two (2) Variances arise from special conditions or attributes which pertain to the subject real property and which were not created by the Applicant. The Applicant has not created the special conditions that the requested Variances address. The Variances are requested because of the unique layout of the existing parcels (with longer sides on street frontage and lesser depth), which is inconsistent with the existing development pattern, and because of the topography of the subject real property.

3. The two (2) Variances will eliminate an unnecessary hardship and permit a reasonable use of the land. In the immediate vicinity of the subject real property, numerous parcels have lesser lot sizes and lesser lot widths than proposed for the resulting four (4) parcels to be permitted by the Variances. The Variances will allow for parcels that are in keeping with the established pattern of development and permit reasonable use of the land.

4. The two (2) Variances will allow the intent of the Zoning Ordinance to be observed and substantial justice done. As set forth in the Zoning Ordinance, the "purpose of the OT-R District is to recognize existing and older residential neighborhoods within the City of Charles Town that are characterized as having smaller Lots, smaller Setbacks, traditional grid Street pattern and access by Street or alley." Minimum lot size and lot width, in conjunction with setback requirements, are intended to ensure adequate space for dwellings and ingress/egress, fresh air, and natural light. The two (2) Variances will allow for sensitively designed infill on small lots within a zoning district characterized by small lot sizes. No negative impacts to adjacent property owners or the public are anticipated.

5. The written report of Staff methodically details precise reasons why the two (2) Variances should be granted in accord with the requirements of 1321.11(E)(3) of the Zoning Ordinance, which written report has been carefully reviewed and considered by the

Board, and the Board hereby adopts such reasons in their entirety and incorporates the same herein.

CONCLUSIONS OF LAW

Based upon the foregoing findings and for the reasons stated herein and based upon staff's recommendations, testimony presented, information contained in the Agenda Packet, and the discussion on the record, the Board, by a vote of four (4) in favor and zero (0) opposed, determines that each of Applicant's requested two (2) Variances satisfies the requirements of Section 1321.11(E)(3) of the Zoning Ordinance and should be granted. The Board hereby certifies that the two (2) Variances granted are the minimum variances that will make possible the reasonable use of the subject real property.

WHEREFORE, the Board hereby GRANTS the requested two (2) Variances, as presented and effective with respect to the four (4) separate parcels to be created from the subject real property by boundary line adjustment and division as contemplated in the application and herein, to: (i) reduce the Minimum Lot Size from 10,000 square feet to approximately 5,070 square feet for the resulting four (4) parcels; and (ii) reduce the Minimum Lot Width from 70 feet to 49 ½ feet for the resulting four (4) parcels, subject in each case to the conditions that the actual sizes of the four (4) resulting parcels are reasonably consistent with the parcel sizes contemplated and presented in the application and testimony and that the contemplated boundary line adjustment and division of the subject real property are duly approved.[1]

1 In reviewing an application, the Board considers as true and accurate the representations of factual circumstances contained in the application and supporting documentation (the "Application Packet"). No action or decision of the Board shall be deemed its verification of any such representation or its approval of any conditions that actually exist but are not accurately represented in the Application Packet.

Except as expressly provided otherwise herein, the Board's actions and decision are (i) premised and conditioned upon the truth and accuracy of the representations contained in the Application Packet and (ii) strictly limited to the uses, structures, and undertakings proposed for the subject real property in the Application Packet.

This Decision is entered as of the date set forth below. Any person adversely affected by this Order may appeal same by Petition to the Circuit Court of Jefferson County within thirty (30) days of receipt hereof.

Entered

C. Locke Wysong, Jr., Chairman

The Applicant/Owner is responsible for ascertaining all relevant facts prior to undertaking activities upon the subject real property. In the event of uncertainty, the Applicant/Owner is advised to obtain an accurate survey of the subject real property, seek legal advice, or take other action, as appropriate, to resolve the uncertainty before undertaking activities upon the subject real property. Failure to do so is at the risk of the Applicant/Owner.

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 12/19/23
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024 Calendar

ATTACHMENTS:

- 2024-Board-of-Zoning-Appeals-DRAFT2.docx