

*City of Alexandria, Virginia*

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MEMORANDUM

DATE: MARCH 4, 2009  
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL  
FROM: JAMES K. HARTMANN, CITY MANAGER *J*  
SUBJECT: 2008 ANNUAL REPORT, BOARD OF ZONING APPEALS

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**ISSUE:** The Annual Report of the Board of Zoning Appeals for 2008.

**RECOMMENDATION:** That City Council receive the report and thank the Board of Zoning Appeals for their efforts on behalf of the City.

**DISCUSSION:** The Board of Zoning Appeals Annual Report was submitted by Michael Curry, Chairman. Statistical highlights of the report are as follows.

- During 2008, the Board heard 30 cases which encompassed 14 variance and 17 special exception requests. All were approved. There were 5 variance requests withdrawn by applicants prior to a Board decision.
- The Board approved:
  - 1 vision clearance variance
  - 3 open space variances
  - 5 front porch special exceptions
  - 10 yard variances
  - 12 yard special exceptions

**ATTACHMENTS:**

Attachment I: 2008 Annual Report of the Board of Zoning Appeals  
Attachment II: List of BZA Members for 2009

**STAFF:**

Stephen Milone, Division Chief, Planning and Zoning  
Peter Leiberg, Zoning Manager, Planning and Zoning  
Mary Christesen, Urban Planner, Planning and Zoning  
Marlo Ford, Urban Planner, Planning and Zoning

**City of Alexandria, Virginia**

**MEMORANDUM**

DATE: FEBRUARY 12, 2009  
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL  
FROM: MICHAEL CURRY, CHAIRMAN, BOARD OF ZONING APPEALS  
SUBJECT: BOARD OF ZONING APPEALS 2008 ANNUAL REPORT

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*Michael Curry  
Chair*

During 2008, Michael Curry served as Chairman of the Board of Zoning Appeals, Mark Allen served as Vice-Chairman, and David Lantzy served as Secretary. Stephen Hubbard, Geoffrey Goodale, Jennifer Lewis and Eric Zander continued to serve as board members.

The Board of Zoning Appeals convened monthly for 10 regular monthly public hearings; there were no cases docketed in March and no regular monthly meeting scheduled in August. The Board held two workshops; on May 8 and October 16, 2008.

A total of 30 cases were docketed in 2008. The number of cases docketed in 2008 decreased by approximately 16.66% from the 36 cases docketed in 2007. Staff believes the reduced number of cases may be due in part to the newly adopted residential infill regulations. Many cases meet the special exception standards instead of requiring a variance. Disposition of the cases is as follows (many cases were deferred and heard by the Board more than once):

Variances

The Board reviewed 10 variance cases, containing 19 variance requests (some variance cases contain multiple variance requests). A total of 14 variance requests were approved by the Board last year, 5 requests were withdrawn by the applicant. Of the 14 variance cases decided by the Board, staff recommended approval 20% and denial 80% of the time.

Special Exceptions

The Board reviewed and approved 16 special exception cases, containing 17 special exception requests (one special exception cases contained multiple special exception requests). Staff recommended approval 100% of the time.

Appeal

One (1) appeal submitted by Thomas Fannon, 1200 Duke Street, was docketed before the Board, but was deferred to the February 2009 hearing by the Board at the request of the applicant in December.

The breakdown of cases and request types are shown in the tables on the following page.

**Total Docketed Cases**

Special Exception cases approved	16
Special Exception cases denied	0
Variance cases approved	10
Variance cases denied	0
Appeals (deferred)	1
Withdrawals (after docketed)	3
<b>TOTAL</b>	<b>30</b>

**Variance Requests**

Approved	14	74%
Denied	0	-
Withdrawn	5	26%
<b>TOTAL</b>	<b>19</b>	<b>100%</b>

**Special Exception Requests**

Approved	17	100%
Denied	0	-
Withdrawn	0	-
<b>TOTAL</b>	<b>17</b>	<b>100%</b>

<b>Variations</b>	<b>Approved</b>
Front Yard Setbacks	1
Side Yard Setbacks	8
Rear Yard Setbacks	1
Open Space Reductions	3
Vision Clearance	1
<b>TOTAL</b>	<b>14</b>

<b>Special Exception</b>	<b># Approved</b>
Side Yard Setbacks	10
Front Yard Setbacks	2
Open Front Porches (Front Yard Setbacks)	5
<b>TOTAL</b>	<b>17</b>

Board of Zoning Appeals Members - 2009

Mark Allen  
Michael Curry  
Geoffrey Goodale  
Stephen Hubbard  
David Lantzy  
Jennifer Lewis  
Eric Zander



Michael Curry  
<curryeiffert@verizon.net>

04/01/2009 10:59 AM

Please respond to  
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<curryeiffert@verizon.net>

To william.euille@alexandriava.gov, timothylovain@aol.com,  
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cc

bcc

Subject COA Contact Us: BZA (sorry if you have received multiple  
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Time: [Wed Apr 01, 2009 10:59:11] IP Address: [206.136.32.227]

**Issue Type:** Mayor, Vice-Mayor and Council Members  
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H.MICHAEL CURRY  
1418 JULIANA PLACE  
ALEXANDRIA, VA 22304  
April 1,

2009  
THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

During the City

Council meeting of March 10, 2009, some City Council members had questions regarding the 100 percent approval of the requests for variances and special exceptions by the Board of Zoning Appeals (BZA) in 2008 and ask for additional information from staff. Let me supplement the following information that is not reflected in the annual report, nor does the annual report spell out the reasons behind the BZA's decisions. Should you have questions or need additional information, I would be happy to meet with you and answer those questions.

Although 100 percent approval might seem excessive at first glance, when one looks into the details of what and why

the special exceptions and variances were granted it may become clearer. I would also point out that the 100 percent approvals for 2008 is still only 10 cases, fewer than the number of cases approved in the past. The BZA works hard to strike a balance between the needs of a property owner and the community as a whole.

In fact, the City's Planning staff has worked to limit the number cases being brought before the BZA by recommending that the homeowners modify their project thereby eliminating the need of a variance or informs them of the less difficult process known as a special exception that does not require a homeowner to justify legal hardship. If a property owner chooses to request a variance, the role of the BZA is to evaluate each request to see if there is sufficient justification by the homeowner to make the desired changes while maintaining the interest of the community as a whole.

During my time on the BZA, we have recommended amending the zoning regulations to allow a property owner to seek relief for improvements where the BZA believed that a variance most likely would be granted. For instance, historically the BZA has received many requests to grant variances for front porches, entry porticos and modernize outbuildings (such as garages and sheds) and to enlarge a home that predates the zoning regulations but requires modernizing to meet a growing families needs.

The BZA suggested to City Council to amend the zoning regulations by creating the special exception process (that to our understanding does not exist in any other Virginia jurisdiction). The special exception process is based more on the homeowners need and neighborhood character and compatibility instead of a homeowner struggling to argue for a legal hardship. In my opinion, the special exception rules now in place have been very successful with fewer variances filed or even heard by the BZA. The special exception process allows the property owner to move forward with their projects without allowing oversized additions.

**Comments:**

If a property owner meets the criteria for a special exception, the request should be approved. As stated in the report, there were 16 special exception cases of which all meet the requirements and were also recommended for approval by staff. The BZA in most cases unanimously granted all of the special exception cases.

In 2008 there were only 10 cases requesting variances or one case (0.83 cases) on average per month. Those 10 cases contained requests for 19 variances. We approved 14 of the 19 requested variances or nearly 75%. Of those approved, a number were either deferred to allow the property owner to consider redesigning or scaling back the project based on concerns and reservations expressed by the BZA and/or neighbors. Other cases were changed by conditions placed on the approval and which were agreed to by the applicants at the hearing. Such conditions in our opinion have lessened the scope of the project and impact on immediate neighbors and neighborhood, but still meeting most of the needs of the homeowner.

Sometime a by-right project (one that meets the zoning regulation) has a far greater negative impact on the community than a modest variance that will accommodate the homeowner's needs. Some in our community feel that there should be no variances offered to anyone for any reason. The reality is that we have a strong and wonderful City where people want to be part the community, modernize their homes, create a family and broaden their circle of friends. If an option exist to grant a small variance that allows that to happen, than the BZA is providing a valuable service to both the applicants and the City.

cc: Members of

the Board of Zoning Appeals  
James Hartmann, City Manager

Faroll Hamer, Director of Planning and Zoning

Sincerely,

H. Michael Curry

CHAIR, BOARD OF ZONNING APPEALS