REGULAR MEETING OF THE ARLINGTON COUNTY
BOARD OF ZONING APPEALS
2100 CLARENDON BOULEVARD, ARLINGTON, VIRGINIA
ROOM 307, on Wednesday May 15, 2019 AT 7:00 P.M.

PRESENT: Charles D. Smith, Chairman
          Inta Malis, Vice Chairman
          Judy Freshman, Member
          Paul Melnick, Member
          Peter Owen, Member

ALSO PRESENT: Stephen Risse, Board of Zoning Appeals Secretary
               Clifton Hogan, Assistant to the Zoning Administrator
               Ja'Que McNeill, Administrative Specialist
               Mark Hamala, Zoning Technician

V-11439-18-VA-1: (carryover) Variance request by Sancus, LLC, the owner, to permit a lot coverage of 66% instead of 48% as required for a single-family detached dwelling in the “R-5” Zoning District with a qualifying front porch; re new detached single-family dwelling with front porch in the R-5 zoning district, premise known as 1031 North Cleveland Street. (Clarendon-Courthouse)

V-11439-18-UP-1: (carryover) Use Permit request by Sancus, LLC, the owner, to permit a left side setback of 5.1 feet to the building wall (4.6 feet to the building eave) from the left property line instead of 8 feet as required from the adjacent property line, to permit a rear setback of 5.1 feet to the wall (3.6 feet to the eave) instead of 25 feet to the wall (21 feet to the eave) as required from the rear property line, to permit a right of way setback of 9.1 feet to the building wall (7.1 feet to the eave) instead of 25 feet to the wall (21 feet to the eave) as required from the North Cleveland Street right-of-way, to permit a right-of-way setback of 3.1 feet to the porch (2.6 feet to the porch eave) instead of the allowed 21 feet to the porch (19.5 feet to the porch eave) as required from the right-of-way, and to permit an aggregate side setback of 16.4 feet instead of 18 feet as required; re new detached single family dwelling with front porch in the R-5 zoning district, premise known as 1031 North Cleveland Street. (Clarendon-Courthouse)

Before public testimony was heard on the first case Mr. Owen requested that the hearing for the first case, V-11439-18-VA-1, and the subsequent related case V-11439-18-UP-1 both be heard before a motion be made on either case. The request passed without opposition.

After a duly advertised hearing at which public testimony in support of the applications was provided by Andrew Moore, the applicants’ agent, as well as John Breslin and Laura S. Rodriguez, neighbors speaking in support of the application, there being no other speakers for this case, Ms. Freshman made a motion to adopt the resolution proposed by staff granting the Variance in case V-11439-18-VA-1 with the conditions stated in the staff report. The motion was seconded by Ms. Malis. After discussion on the merits of the subsequent Use permit, the motion passed after a vote of 5-0.

RESOLUTION

WHEREAS, the Board of Zoning Appeals (“BZA”) has held a duly advertised public hearing on May 15, 2019 on case number V-11439-18-VA-1, to permit a lot coverage of 66% instead of 48% as required for a single-family detached dwelling in the “R-5” Zoning District with a qualifying front porch; re new detached single-family dwelling with front porch in the “R-5” Zoning District, premise known as 1031 North Cleveland Street; and,

WHEREAS, the BZA finds that the granting of this variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon which existed upon the effective date of the zoning ordinance; and,

WHEREAS, the BZA finds that the property was acquired in good faith, and the hardship was not created by the applicants; and,

WHEREAS, the BZA finds that the granting of a variance will not be detrimental to adjacent
WHEREAS, the BZA finds that the condition or situation of the property is not so general or recurring as to make reasonably practicable to formulate a regulation which can be adopted as an amendment to the ordinance; and,

WHEREAS, the BZA has determined that the granting of a variance and would not result in a change in use that is otherwise not permitted or change the zoning classification of the property;

NOW, THEREFORE, BE IT RESOLVED that the BZA hereby approves Variance case number V-11439-18-VA-1, subject to the following:

1. The applicants shall obtain and provide to the Zoning Administrator one or more plats, which may include a wall check plat when the foundation is constructed and a final plat at the completion of the project, unless determined by the Zoning Administrator that such plats shall not be required.

2. The applicants agree that the front porch shall not be built over or enclosed.

3. The applicants shall obtain a building permit to construct the structure permitted herein by May 15, 2020 or the Variance shall be null and void.

In case V-11439-18-UP-1 Mr. Owen made a motion to modify and adopt the alternative resolution proposed by staff granting the Use Permit in case V-11439-18-UP-1 as advertised with the conditions stated in the staff report. The motion was seconded by Ms. Freshman, and passed after a vote of 4-1 with Mr. Melnick voting against the motion.

RESOLUTION

WHEREAS, the Board of Zoning Appeals ("BZA") has held a duly advertised public hearing on May 15, 2019 on case number V-11439-18-UP-1 for a Use Permit, to permit a left side setback of 5.1 feet to the building wall (4.6 feet to the building eave) from the left property line instead of 8 feet as required from the adjacent property line, to permit a rear setback of 5.1 feet to the wall (3.6 feet to the eave) instead of 25 feet to the wall (21 feet to the eave) as required from the rear property line, to permit a right of way setback of 9.1 feet to the building wall (7.1 feet to the eave) instead of 25 feet to the wall (21 feet to the eave) as required from the North Cleveland Street right-of-way, to permit a right-of-way setback of 3.1 feet to the porch (2.6 feet to the porch eave) instead of the allowed 21 feet to the porch (19.5 feet to the porch eave) as required from the right-of-way, and to permit an aggregate side setback of 16.4 feet instead of 18 feet as required; re new detached single family dwelling with front porch in the "R-5" Zoning District, premise known as 1031 North Cleveland Street; and,

WHEREAS, the BZA finds that the proposal will not affect adversely the health or safety of persons residing in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be in conflict with the purposes of the master plans and land use and zoning policies of the County; and,

WHEREAS, the BZA has determined that the modification is compatible with development in the surrounding neighborhood and that the structure’s overall footprint size and placement are similar to comparable structures on other properties in the County solely because of the unusual placement and size of the parcel and the proposal would help preserve natural land form, historical features and/or significant trees.

NOW, THEREFORE, BE IT RESOLVED that the BZA hereby approves Special Use Permit case number V-11439-18-UP-1, subject to the following:

1. The applicants agree that the dwelling/structure shall be constructed in accordance with the footprint shown on the survey, and the architectural drawings attached to the staff report dated May 10, 2019 and that no enlargement of the structure/addition may be made in any
2. The applicants shall obtain and provide to the Zoning Administrator one or more final plats, to certify the addition’s location.

3. The applicants agree that the front porch shall not be permitted to be built over, or enclosed.

4. The applicants shall obtain a building permit to construct the structure permitted herein by May 15, 2020 or the Use Permit shall be null and void.

V-11460-19-UP-1: Use Permit request by Lawrence & Jeanne Nesbitt, the owners, to permit a front setback of 24 feet to the wall, 16 feet to the porch, (15.8 to the porch eave), and 3.2 feet to the stairs, instead of 25 feet to the wall, 21 feet to the porch (19.5 feet to the porch eave) and 5 feet to the stairs as required from North Courthouse Rd right-of-way, to permit a setback of 11.7 feet to walls exceeding 4 feet, instead of 25 feet as required, and to permit construction of a building exceeding two and half stories at 24 feet from the street right-of-way instead of 25 feet as required; re the construction of a new single family dwelling in the R-6 zoning district; premises known as 2117 North Courthouse Road (North Highlands).

After a duly advertised hearing at which public testimony in support of the application was provided by William B. Lawson Jr., the applicants’ agent, as well as Jackie Spires, Patrick Putrell, and Hugh Schaefer, neighbors in support of the application, and there being no other speakers for this case, Ms. Freshman made a motion to adopt the alternative resolution proposed by staff granting the Use Permit as advertised with the conditions stated in the staff report. The motion was seconded by Mr. Melnick. Before a vote was taken on the motion Ms. Malis requested unanimous consent to modify the motion to indicate the site will include no stairs exceeding 8-inches within 5 feet of the right-of-way, Mr. Owen asked for unanimous consent to modify the 1st whereas clause of the proposed motion to remove mention of the stairs in order to execute Ms. Malis’ motion. Both requests passed without opposition and the amended motion passed after a vote of 5-0.

RESOLUTION

WHEREAS, the Board of Zoning Appeals ("BZA") has held a duly advertised public hearing on May 15, 2019 on case number V-11460-19-UP-1 for a Use Permit to permit a front setback of 24 feet to the wall, and 16 feet to the porch, (15.8 to the porch eave), and 3.2 feet to the stairs, instead of 25 feet to the wall, and 21 feet to the porch (19.5 feet to the porch eave) and 5 feet to the stairs as required from North Courthouse Rd right-of-way, to permit a setback of 11.7 feet to walls exceeding 4 feet, instead of 25 feet as required, and to permit construction of a building exceeding two and half stories at 24 feet from the street right-of-way instead of 25 feet as required; re the construction of a new single family dwelling in the R-6 zoning district; premises known as 2117 North Courthouse Road; and,

WHEREAS, the BZA finds that the proposal will not affect adversely the health or safety of persons residing in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be in conflict with the purposes of the master plans and land use and zoning policies of the County; and,

WHEREAS, the BZA has determined that the modification is compatible with development in the surrounding neighborhood and that the structure’s overall footprint size and placement are similar to comparable structures on other properties in the County and the proposal would help preserve natural land form, historical features and/or significant trees.

NOW, THEREFORE, BE IT RESOLVED that the BZA hereby approves Special Use Permit case number V-11460-19-UP-1, subject to the following:

1. The applicants agree that the structure shall be constructed in accordance with the footprint shown on the survey, and the architectural drawings attached to the staff report dated
May 10, 2019, and that no enlargement of the structure/addition may be made in any dimension shown on the plat or architectural drawings.

2. The applicants shall obtain and provide to the Zoning Administrator one or more final plats, to certify the addition’s location.

3. The front porch shall not be permitted to be built over, expanded, or enclosed.

4. The applicants shall obtain a building permit to construct the structure permitted herein by May 15, 2020 or the Use Permit shall be null and void.

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Before the next case was heard, Mr. Owen recused himself from the item, because of his acquaintance with the applicant.

V-11461-19-UP-2: Use Permit request by Amir Tahami, the owner, to permit a right side setback of 3.1 feet to the wall (and eave) instead of 10 feet to the wall (6 feet to the eave) as required from the adjacent property line, and to permit an aggregate side yard of 12.1 feet instead of 18 feet as required in the R-6 zoning district; re a one-story rear addition in the R-6 zoning district; premise known as 3110 9th Street North (Lyon Park).

After a duly advertised hearing at which public testimony in support of the application was provided by Margaret (Maggie) Wills the applicant’s agent, and there being no other speakers for this case. Mr. Melnick made a motion to adopt the resolution proposed by staff granting the Use Permit request with the conditions stated in the staff report. The motion was seconded by Ms. Freshman, and passed after a vote of 4-0-1 with Mr. Owen recused.

RESOLUTION

WHEREAS, the Board of Zoning Appeals ("BZA") has held a duly advertised public hearing on May 15, 2019 on case number V-11461-19-UP-2 for a Use Permit to permit a right side setback of 3.1 feet to the wall (and eave) instead of 10 feet to the wall (6 feet to the eave) as required from the adjacent property line, and to permit an aggregate side yard of 12.1 feet instead of 18 feet as required in the R-6 zoning district; re a one-story rear addition in the R-6 zoning district; premise known as 3110 9th Street North; and,

WHEREAS, the BZA finds that the proposal will not affect adversely the health or safety of persons residing in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be in conflict with the purposes of the master plans and land use and zoning policies of the County; and,

WHEREAS, the BZA has determined that the modification is compatible with development in the surrounding neighborhood and that the structure's overall footprint size and placement are similar to comparable structures on other properties in the County and the proposal would help preserve natural land form, historical features and/or significant trees.

NOW, THEREFORE, BE IT RESOLVED that the BZA hereby approves Special Use Permit case number V-11461-19-UP-2, subject to the following:

1. The applicants agree that the structure/addition shall be constructed in accordance with the footprint shown on the survey, and the architectural drawings attached to the staff report dated May 10, 2019 and that no enlargement of the structure/addition may be made in any dimension shown on the plat or architectural drawings.

2. The applicants shall obtain and provide to the Zoning Administrator one or more final plats, to certify the addition’s location.
3. The applicants shall obtain a building permit to construct the structure permitted herein by May 15, 2020 or the Use Permit shall be null and void.

V-11462-19-UP-2: Use Permit request by Tara Teaford, the owner, to permit a right side setback of 6.7 feet to the wall and eave instead of 8 feet to the wall (6 feet to the eave) as required from the adjacent property line; re the enclosure of a carport in the R-8 zoning district, premise known as 2408 North Upshur Street. (Donaldson Run)

After a duly advertised hearing at which public testimony in support of the application was provided by Tara Teaford the applicant, and Walter Bainbridge, the applicant’s agent, and there being no other speakers for this case. Mr. Melnick made a motion to adopt the resolution proposed by staff granting the Use Permit request with the conditions stated in the staff report. The motion was seconded by Ms. Freshman, and passed after a vote of 5-0.

RESOLUTION

WHEREAS, the Board of Zoning Appeals (“BZA”) has held a duly advertised public hearing on May 15, 2019 on case number V-11462-19-UP-2 for a Use Permit to permit a right side setback of 6.7 feet to the wall and eave instead of 8 feet to the wall (6 feet to the eave) as required from the adjacent property line; re the enclosure of a carport in the R-8 zoning district, premise known as 2408 North Upshur Street; and,

WHEREAS, the BZA finds that the proposal will not affect adversely the health or safety of persons residing in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be in conflict with the purposes of the master plans and land use and zoning policies of the County; and,

WHEREAS, the BZA has determined that the modification is compatible with development in the surrounding neighborhood and that the structure’s overall footprint size and placement are similar to comparable structures on other properties in the County and the proposal would help preserve natural land form, historical features and/or significant trees.

NOW, THEREFORE, BE IT RESOLVED that the BZA hereby approves Special Use Permit case number V-11462-19-UP-2, subject to the following:

1. The applicants agree that the structure/addition shall be constructed in accordance with the footprint shown on the survey, and the architectural drawings attached to the staff report dated May 10, 2019 and that no enlargement of the structure/addition may be made in any dimension shown on the plat or architectural drawings.

2. The applicants shall obtain and provide to the Zoning Administrator one or more final plats, to certify the addition’s location.

3. The applicants shall obtain a building permit to construct the structure permitted herein by May 15, 2020 or the Use Permit shall be null and void.

V-11463-19-UP-1: Use Permit request by Kathleen McKeown, the owner, to permit a left side setback of 8.3 feet to the wall, instead of 10 feet as required from the side property line, and to permit a rear setback of 19.5 feet to the wall (18.5 feet to the eave) instead of 25 feet to the wall (21 feet to the eave) as required from the rear property line; re two-story rear addition on a non-conforming semi-attached two-family dwelling in the R2-7 zoning district, premise known as 2012 21st Street North. (North Highlands)

After a duly advertised hearing at which public testimony in support of the application was provided by Sean Kunzler, Scott Spangler, and Jon Haggard, the applicant’s agents, as well as
Eileen McKeown, neighbor and sister of the applicant. Public testimony in opposition to the application was provided by John Giblin, the neighbor sharing the party wall. There being no other speakers for this case, and after discussion on the proposed two-story addition, Ms. Freshman made a motion to defer the application to the July BZA hearing for the purpose of allowing the applicant time to consider an alternative design and consult further with nearby neighbors. The motion was seconded by Ms. Malis and passed after a vote of 5-0.

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V-11464-19-UP-1: Use Permit request by Leland L. & Jacqueline D. Scott, the owners, to permit a right side setback of 10.8 feet to the wall (9 feet to the post, 7 feet to the eave) from the right side property line, instead of 25 feet to the wall and post (21 feet to the eave) as required; re one-story side addition with structural posts and roof overhang on a pipe-stem lot in the R-6 zoning district, premise known as 6322 22nd Road North. (Arlington – East Falls Church)

After a duly advertised hearing at which public testimony in support of the application was provided by Francisco (Tito) Cortes, the applicant’s agent, and Leland Scott, the applicant, and there being no other speakers for this case, Ms. Malis made a motion to adopt the resolution proposed by staff granting the Use Permit request with the conditions stated in the staff report. The motion was seconded by Ms. Freshman, and passed after a vote of 5-0.

RESOLUTION

WHEREAS, the Board of Zoning Appeals (“BZA”) has held a duly advertised public hearing on May 15, 2019 on case number V-11464-19-UP-1 for a Use Permit to permit a right side setback of 10.8 feet to the wall (9 feet to the post, 7 feet to the eave) from the right side property line, instead of 25 feet to the wall and post (21 feet to the eave) as required; re one-story side addition with structural posts and roof overhang on a pipe-stem lot in the R-6 zoning district, premise known as 6322 22nd Road North; and,

WHEREAS, the BZA finds that the proposal will not affect adversely the health or safety of persons residing in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be in conflict with the purposes of the master plans and land use and zoning policies of the County; and,

WHEREAS, the BZA has determined that the modification is compatible with development in the surrounding neighborhood and that the structure’s overall footprint size and placement are similar to comparable structures on other properties in the County and the proposal would help preserve natural land form, historical features and/or significant trees.

NOW, THEREFORE, BE IT RESOLVED that the BZA hereby approves Special Use Permit case number V-11464-19-UP-1, subject to the following:

1. The applicants agree that the structure/additions shall be constructed in accordance with the footprint shown on the survey, and the architectural drawings attached to the staff report dated May 10, 2019 and that no enlargement of the structure/addition may be made in any dimension shown on the plat or architectural drawings.

2. The applicants shall obtain and provide to the Zoning Administrator one or more final plats, to certify the addition’s location.

3. The applicants agree that the eave overhang shall not be permitted to be built under, expanded, or enclosed.

4. The applicants shall obtain a building permit to construct the structure permitted herein by May 15, 2020 or the Use Permit shall be null and void.

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V-11465-19-VA-3: Variance request by Roger Ramia, the owner, to permit the construction of a new single family dwelling on a lot that has a width of 50 feet instead of 80 feet as required; re a new two-story single family dwelling on an interior lot in the R-10 zoning district; premise known as 3644 North Vermont Street.

V-11465-19-UP-2: Use Permit request by Roger Ramia, the owner, to permit a setback of 8.3 feet to the building wall and porch (6.3 feet to the building and porch eaves) of a two-story house instead of 13.8 feet to the building wall and porch (9.8 feet to the building and porch eaves) as required from the left adjacent property line, and to permit an aggregate setback of 18.5 feet instead of 24 feet as required; re new two-story single family dwelling in the R-10 zoning district; premise known as 3644 North Vermont Street.

After a duly advertised hearing at which public testimony in support of the application was provided by Roger Ramia, the applicant, and there being no other speakers for this case, Mr. Owen made a motion to adopt the resolutions proposed by staff granting both the Variance requested in case V-11465-19-VA-3 and the Use Permit requested in case V-11465-19-UP-2 with the conditions stated in their staff reports. The motion for approval of both applications was seconded by Ms. Freshman, and passed after a vote of 5-0.

RESOLUTION

WHEREAS, the Board of Zoning Appeals ("BZA") has held a duly advertised public hearing on May 15, 2019 on case number V-11465-19-VA-3 for a Variance to permit the construction of a new single family dwelling on a lot that has a width of 50 feet instead of 80 feet as required; re a new two-story single family dwelling on an interior lot, "R-10" Zoning District, premise known as 3644 North Vermont Street; and,

WHEREAS, the BZA has determined that there is a hardship related to a pre-existing non-conforming situation, and that the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property and that the granting of the variance would not amount to a special privilege or convenience sought by the applicant; and,

WHEREAS, the BZA finds that the property was acquired in good faith, and the hardship was not created by the applicants; and,

WHEREAS, the BZA finds that the proposal will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of a variance; and,

WHEREAS, the BZA finds that the condition of the existing non-conforming lot is not shared generally by other properties in the same zoning district and in the same vicinity; and,

WHEREAS, the BZA has determined that the granting of a variance and would not result in a change in use that is otherwise not permitted or change the zoning classification of the property;

NOW, THEREFORE, BE IT RESOLVED that the BZA hereby approves Variance case number V-11465-19-VA-3, subject to the following:

1. The applicants agree that the project shall be constructed in accordance with the footprint shown on the survey, and the architectural drawings attached to the staff report dated May 10, 2019 and that no enlargement of may be made in any dimension shown on the plat or architectural drawings.

2. The applicants shall obtain and provide to the Zoning Administrator one or more plats, which may include a wall check plat when the foundation is constructed and a final plat at the completion of the project, unless determined by the Zoning Administrator that such plats shall not be required.

3. The applicants agree that the front porches shall not be built over or enclosed any further than is currently shown.

4. The applicant shall obtain a building permit to construct the structures permitted herein by
May 15, 2020 or the Variance shall be null and void.

RESOLUTION
WHEREAS, the Board of Zoning Appeals (“BZA”) has held a duly advertised public hearing on May 15, 2019 on case number V-11465-19-UP-2 for a Special Use Permit application, to permit a setback of 8.3 feet to the building wall and porch (6.3 feet to the building and porch eaves) of a two-story house instead of 13.8 feet to the building wall and porch (9.8 feet to the building and porch eaves) as required from the left adjacent property line, and to permit an aggregate setback of 18.5 feet instead of 24 feet as required; re new two-story single family dwelling in the R-10 zoning district; premise known as 3644 North Vermont Street; and,

WHEREAS, the BZA finds that the proposal will not affect adversely the health or safety of persons residing in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and,

WHEREAS, the BZA finds that the proposal will not be in conflict with the purposes of the master plans and land use and zoning policies of the County; and,

WHEREAS, the BZA has determined that the modification is compatible with development in the surrounding neighborhood and that the structure’s overall footprint size and placement are similar to comparable structures on other properties in the County and the proposal would help preserve natural land form, historical features and/or significant trees.

NOW, THEREFORE, BE IT RESOLVED that the BZA hereby approves Special Use Permit case number V-11465-19-UP-2, subject to the following:

1. The applicants agree that the structure/addition shall be constructed in accordance with the footprint shown on the survey, and the architectural drawings attached to the staff report dated May 10, 2019, and that no enlargement of the structure/addition may be made in any dimension shown on the plat or architectural drawings.

2. The applicants shall obtain and provide to the Zoning Administrator one or more plats, which may include a wall check plat when the foundation is constructed and a final plat at the completion of the project, unless determined by the Zoning Administrator that such plats shall not be required.

3. The applicants agree that the front porches shall not be built over or enclosed any further than is currently shown.

4. The applicants shall obtain a building permit to construct the structure permitted herein by May 15, 2020 or the Use Permit shall be null and void.

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APPROVAL OF MINUTES:
Mr. Owen made a motion to approve the April 17, 2019 meeting minutes as revised and distributed to the BZA ahead of the May 2019 hearing. The motion was seconded by Ms. Freshman, and passed after a vote of 5-0.

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ADJOURNMENT:
Ms. Freshman made a motion to adjourn. The motion was seconded by Ms. Malis, and was passed after a vote of 5-0. The meeting adjourned at 9:20 p.m.

Please note that underscored words in the resolutions above represent amendments made by the BZA to the resolutions contained within the staff reports. Words that have been crossed through reflect language removed at the request of the BZA.

Stephen Risse, Secretary