

**Minutes
City of Huntington Board of Zoning Appeals
February 20, 2024**

A meeting of the City of Huntington Board of Zoning Appeals was held on February 20, 2024 at 5:32 p.m. in the City Hall Council Chambers. *Ms. Proctor* called the meeting to order and confirmed a quorum was present.

Members Present: Jacqueline Proctor, Gina Browning, Steven Yates, Dan Earl & Sara Loftus

Members Absent: None

Staff Present: Cade Williams, Planner II
Bre Shell, Planning Director
Erica Hernandez, Assistant City Attorney
Steve Curry, Planner II
Stephanie Petruso, Senior Planner

Hearing no corrections or objections, *Ms. Proctor* approved the January Minutes, and all present were in favor.

Hearing no corrections or objections, *Ms. Proctor* approved the January Orders, and all present were in favor.

BZA 23-C-32;

A petition for a conditional use to permit a bar to be located in the C-2 Highway Commercial District.

BZA 23-C-33;

A petition for a variance to the distance requirement between a residential area and a limited video lottery location.

BZA 23-V-34;

A petition for a variance to the distance requirement between two limited video lottery locations.

BZA 23-V-35;

A petition for a variance to the distance requirement between a church and a limited video lottery location.

BZA 23-V-36;

A petition for a conditional use to permit a limited video lottery to be located in the C-2 Highway Commercial District.

Petitioner: Sherry Kipp, 1713 Chestnut St., Kenova, WV

Property Owner: Ronnie Myers, P O Box 2885, Huntington, WV

Property Location: 2333 Adams Ave.

Robert Sharp, 1713 Chestnut St., Kenova, WV, spoke on behalf of the petitioner for these petitions. He explained the petitioner could not be at the meeting due to a family-related medical emergency. He requested for BZA 23-C-32 to be moved to the next meeting and wanted to withdraw BZA 23-C-33 thru BZA 23-V-36.

Mr. Earl motioned to move BZA 23-C-32 to the March meeting. *Ms. Browning* and *Mr. Yates* seconded motion.

BZA Roll Call: *Ms. Loftus*, Yes; *Mr. Yates*, No; *Ms. Browning*, Yes; *Mr. Earl*, Yes; *Ms. Proctor*, Yes.

BZA 23-C-32 was approved to be moved to the March meeting with a vote 4 Yes to 1 No.

Mr. Earl motioned to withdraw BZA 23-C-33 thru BZA 23-V-36. *Mr. Yates* seconded motion.

BZA Roll Call: *Mr. Yates*, Yes; *Ms. Browning*, Yes; *Mr. Earl*, Yes; *Ms. Loftus*, Yes; *Ms. Proctor*, Yes.

BZA 23-C-33 thru BZA 23-V-36 were approved to be withdrawn.

BZA 23-V-41

A petition for a variance to exceed the height requirement for a fence in the front yard of a residential property in the R-5 Multi-family Residential District. The property is located at 210 6th Ave.

Petitioner/Property Owner: Anthony C. Almeida, 210 6th Ave., Huntington, WV 25701.

Anthony Almeida, 210 6th Ave., represented the petition and explained the reasoning for the fence. He stated he received a stop order from the City. He mentioned to the *Board* his plans for the fence if he is allowed to finish the project. Lastly, he reiterated the reason for installing the fence was to keep his family safe.

Ms. Shell read the Staff Report.

Mr. Earl questioned if the fence shown in the plan would be the final product and the reasoning for the fence to be over the maximum height requirement. *Mr. Almeida* explained the height was instituted for the design and to prevent people from getting into his yard.

Ms. Proctor stated the fence looked like a construction fence the last time she saw it. She added 6th Avenue is an area with problems becoming nicer and safe. Lastly, she emphasized the fence takes the house and the fence itself out of character with the townscape.

Mary Ann Dolen, 28 Hamill Rd., spoke in opposition of this petition. She expressed all one can see is the fence when looking at that property off of 6th Ave. She noted one side of her home had drug activity recently and the other side of her home is vacant to help explain the type of activity in this area. She explained the neighborhood has a lot of issues and she has no problem with the petitioner building a fence but has an issue with the height.

Mary Dean, 615 2nd St., spoke in opposition of this petition. She stated the neighborhood has improved (in terms of safety). She explained there has been issues in the past but these problems like prostitution have gone away. She added locals have built fences in the past but constructed them in a fashion that complimented neighborhood character. She added she is appreciative of people being concerned but as a 70-year-old she utilizes services like Grub Hub and Uber at night and no one ever bothers her nor has in

the past. Overall, from her perspective, she explained the neighborhood is safer and would rather see a wrought-iron fence at this property like has been done with nearby properties.

Ms. Loftus stated the variance could eliminate a hardship for the petitioner and there is a condition occurring at the residence that is not created by the petitioner.

Ms. Proctor questioned if the height requirement for fencing in the City Ordinance counts for either blind or visible fences.

Ms. Shell stated the City Ordinance covers both material and height requirements for fencing. *Ms. Hernandez* stated transparency would have to be at least 50%.

Mr. Earl expressed his dissatisfaction with the fence. He recommended the petitioner explore other safety methods.

Mr. Yates stated he is not concerned with the height but is concerned that this fence would not be a solution to safety issues in the area. His other concern is the fence does not fit the character of the neighborhood.

Ms. Loftus asked for clarification on the correlation with transparency and material requirements in contrast to fence height. *Ms. Shell* elaborated the height and privacy in the front yard is in question.

Ms. Browning questioned the percentage of transparency present. *Ms. Shell* explained how transparency is calculated for fencing.

Mr. Yates expressed, in his opinion, the safety of the petitioner's family should be weighed more than the aesthetics of the fence.

Ms. Loftus made a motion to approve BZA 23-V-41. *Mr. Earl* seconded motion.

BZA Roll Call: *Ms. Browning*, Yes; *Ms. Loftus*, Yes; *Mr. Yates*, Yes; *Mr. Earl*, No; *Ms. Proctor*, No.

BZA 23-V-41 was approved with a vote 3 Yes to 2 No.

BZA 24-06;

A petition for a variance to exceed the height requirement for a structure in the R-1 Single-family Residential District. The property is located at 111 Kings Hwy.

Petitioner/Property Owner: West Virginia American Water, 1600 Pennsylvania Ave., Charleston, WV.

BZA 24-07

A petition for a variance to construct a fence with barbed wire in the R-1 Residential District.

Ms. Loftus recused herself.

Kennon Chambers from Ghosh Engineers, 1 Dunbar Plz, Suite 200, Dunbar, WV, represented the petition on behalf of West Virginia American Water. The petitioner would like to construct a new water tower at 111 Kings Hwy. A new water storage tank is needed as a nearby tank is at the end of its life expectancy. The existing tank cannot be rebuilt due to its location. A variance for height is needed as the new tank will be 74 feet in height due to site conditions.

Ms. Shell read the Staff Report.

Mr. Yates questioned the end result for the old tank. *Mr. Chambers* stated the old tank will be removed from service which includes tearing the tower down.

Mr. Yates wondered where the adjacent site is located. *Mr. Chambers* explained the location of this site in relevance to 111 Kings Hwy.

Ms. Proctor asked why the new tower has to be taller than the existing nearby tower. *Mr. Chambers* stated the base of the current tank sits higher than the new tank. Thus, a higher base is needed to ensure the overflow height of the tanks match if not be close in height. *Ms. Shell* added the typical height for a structure in the R-1 District is 2.5 stories or 35 feet. She stated Public Utility Installations are permitted in all districts within need and reason. Lastly, *Mr. Chambers* stated the current tower has been in place since 1953.

Mr. Earl questioned how many households are serviced by the current tank. *Mr. Chambers* estimated 300 customers are serviced by the current tank.

Mr. Earl asked for elaboration on the increase to fire response with the implementation of the new tank. *Mr. Chambers* responded by disclosing the new tank will have more storage capacity than the current tank.

Ms. Proctor questioned the need for a variance to build a barbed wire fence. *Mr. Chambers* stated he could not confirm with the Bureau of Public Health this was a requirement by them but it is strongly encouraged to have barbed wire fencing on site. He stated sanitary surveys are needed too. He explained these rules were implemented after the 9/11 terrorist attacks.

Ms. Proctor asked if there was barbed wire fencing around the current tower. *Mr. Chambers* stated there is no fencing around the site. *Ms. Proctor* questioned why there was no fencing at the current site. *Mr. Chambers* stated older facilities do not have fencing and after 9/11 water companies wrapped barbed wire around overflow pipes and cut ladders that lead to tanks to prevent someone from contaminating the water with an unknown agent. Lastly, he noted putting a fence around the current tank would be costly. Due to the location and condition of the current tank, it's more cost effective to choose to build a new tank on a nearby lot.

Mr. Yates questioned if there was a possibility the tank could be rehabilitated. *Mr. Chambers* confirmed this was not possible and explained the reasoning behind this conclusion.

Mr. Earl asked what the typical lifespan was for a tank. *Mr. Chambers* stated if tanks are painted and maintained they can last for 100 years. He added the new tank will be made of bolted steel resulting in less need for upkeep.

Mr. Yates wondered if there was an option to tear down the current tank, put it out of service, and build a new tank on the grounds of the old one. *Mr. Chambers* stated this was not possible as customer's quality of service will suffer. Additionally, it would hard to operate under these conditions as the pump will be working all the time. *Mr. Yates* asked if the reason to build on a new site is because it is cheaper. *Mr. Chambers* stated this is not the case, the current site is difficult to access and the current state of the tank makes it ideal to build a new tank at a different site.

Walter Nanto, 95 Kings Hwy, spoke in support of these petitions. He explained the water pressure is horrendous and he's attempted to contact the water company multiple times and has heard the company cannot fill the tower to create the necessary pressure due to the tower's condition. He has witnessed

numerous leaks on the tower and bubbles underneath the grass when there is a leak. As a resident he wants better water. He thinks something needs to be done to ensure better water pressure can be provided.

John Krieger, 99 Kings Hwy, spoke in objection of these petitions. He stated he has lived at this address since 1956. He stated there was a Water Maple Tree that was planted in front of the tower. After the tree died, he planted Landen Cyprus trees around the tank: this was done 30 years ago. Now the trees provide a buffer between his residence and the tower. He's going to be faced with looking at a new tank. He noted the water company has been working with him and his wife; but, he wishes there could be a new location for the tank besides the proposed site. Lastly, he had an appraiser evaluate his property in the scenario the new tank is built. He was told his property value would go down by \$75,000 to \$100,000. He is wondering who would pay for this loss. He knows there needs to be a new tank; but, he believes the location of the new tank will be harmful to him and his neighbors. *Ms. Proctor* asked him when the old tank is deconstructed if his trees will be taken out. Mr. Krieger believes this is possible. He stated he is not going to have the water company destroy his property to tear down the current tower. Additionally, he stated he was informed it will take 2 months to take the tower down. *Mr. Earl* asked if the new tank could be hidden. Mr. Krieger alluded this is not possible because there is nowhere an immediate screen can be created due to the layout of his property.

Caroline Hunter, 125 Kings Hwy, spoke in objection of these petitions. She stated she has been a resident on this street for about 2.5 years. She lives about 3 lots down from the proposed site of the new tower and has some concerns. She wonders what has been done to prevent land erosion and slippage. She would like to advocate for proper engineering procedure due to the amount of water this tank will hold and the slope the tank will stand on. She noted she works from home and has concern about traffic on Kings Hwy due to the project as the road does not have enough room for 2 cars in some areas. Lastly, she has some concerns about how the appearance of the tower will impact real estate values of surrounding properties. Additionally, she wants to know how wide this tower will be. Also, she thinks the barbed wire fence will negatively impact the neighborhood. She alluded she would like to see some sort of agreement that contributes to the appearance of the tower.

Sarah Loftus, 91 Kings Hwy, spoke in objection of these petitions. She stated at times water from the faucet drips. She stated people call and the water company does not answer. To her knowledge, the project has been going through a quiet process. She had no idea about this new tower until the Planning Office notified impacted residents. She has seen little detail about the project. She stated the area is filled with single-family residential homes and the fact the tower needs to be replaced due to poor upkeep is concerning. She thinks this project is going to be extremely disruptive during construction. She stated there is a spring under the hill the new tower will be on and property values will be impacted. She pondered if this site is a good place to build a tower due to the topography. *Mr. Earl* asked if the home that was torn down for the proposed new tower was in a state of despair. Ms. Loftus stated the house was not in this state and loosely explained the progression of the time from the house being destroyed to the notification of a new water tower being proposed. Ms. Loftus explained the lots behind homes in this neighborhood are wooded and owned by nearby property owners.

Brian Gallagher, 300 Roland Park Dr., spoke in objection of these petitions. He stated to him the project process has been quiet and people have been nice but he wants straight answers. He stated he live on the other side of the street so his home is between Kings Hwy and Roland Park Dr. A lot of the wooded lots are vacant. He stated the site for the proposed new tower has a very steep slope and there have been a lot of drainage issues. He said there has been tremendous runoff since the demolition of the home on the proposed site. Lastly, he described there being water leaks in the past.

Allen Hill, 83 Kings Hwy, spoke in objection of the petition. His concerns include ensuring the old tank is removed and if the new tank will actually improve water pressure. He alluded addressing those concerns may change his decision in regards to his feelings towards these petitions.

Mr. Chambers came back up to the podium to provide more information on these petitions. *Ms. Proctor* questioned the removal process of the old tower. He stated removal of the old tank is a planned project for the future: the concern at the moment is to get past the step to build a new water tower.

Ms. Proctor asked for clarification on the existence of the old tower in correlation to the new tower. Mr. Chambers confirmed the old tower will stay when the new tower is up. The plan is for the old tank to be removed.

Ms. Proctor questioned if there was a timeline for removal. Mr. Chambers explained that estimated time for the tank to be removed by will be 2026 while construction of the new tower will start by 2025.

Mr. Earl asked how much time will be slated for the old tank to be standing when the new tank is in service. Mr. Chambers stated that is to be seen. A solid plan needs to be in place to remove the current tank.

Ms. Proctor wondered why it looks like West Virginia America Water neglected the tank all this time to end up facing this issue. Mr. Chambers did not know the reason why this occurred.

Ms. Browning asked if there is an option where a partially constructed tank can be placed in the spot of the current tower once it is deconstructed. Mr. Chambers stated that is not an option due to site restrictions and alluded to potential foundation issues.

Mr. Earl questioned what “plan b” is if these variances aren’t approved in an alluded fashion. Mr. Chambers did not know what an alternative would be. He stated the system in the City is old so if this project at this site cannot be done there will be problems as changing the functionality for customers is another ball game.

Mr. Earl wondered if other properties have been examined. Mr. Chambers stated this had been done but there are no other properties at the right elevation for the tank to be constructed to maintain service for customers.

Mr. Earl asked if a new tower is built on this property if there is a way for it be concealed (from the view of residents). Mr. Chambers indicated that was a great point and stated the water company is willing to dress up the tower as much as possible.

Mr. Chambers explained the reasoning for a tank to hold more volume of water is to increase more consistent pressure.

Ms. Proctor wanted clarification if there is another spot to build this tower. Mr. Chambers explained to match the elevation of the current tower the new tower would need to be 4 feet higher. *Ms. Proctor* wanted to confirm the new tank has a new spot. Mr. Chambers confirmed this is true. He stated another property could not be found to match the elevation of the current tower with the new tower.

Ms. Browning and *Ms. Proctor* questioned if a higher structure could be built to match the elevation on a different property. Mr. Chambers explained if the tank is moved around it will not function the same way.

Mr. Earl wondered if *Mr. Chambers* could go back to the drawing board and put into consideration the neighbor's opinions: potentially start dialogue with the neighbors. *Mr. Chambers* explained this has happened with some of the neighbors. He said plants can be planted and fencing has to be installed.

Mr. Yates alluded commentary on the appearance of the tower would come from the neighborhood. He stated this will be a significant infrastructure project and it almost looks like the water company overlooked the community and their other interests when examining other things like ensuring hot showers and transit: there seems to be this other side of costs and the community was mostly not engaged in a constructive manner.

Mr. Earl suggested addressing some of the neighbor's concerns and coming back to the Board. *Ms. Browning* agreed with this notion.

Ms. Proctor asked if these variances could be passed or tabled. *Ms. Hernandez* explained these variances can be passed to the next meeting and explained these parties are slated to go in front of Planning Commission. It is possible the feedback from that meeting may cause them to come back to the Board. She stated if the petitions were voted down tonight these petitions will not be able to be reintroduced until a year after.

Mr. Yates questioned if pushing these petitions to March would be enough time for dialogue with the neighbors to occur. *Ms. Hernandez* stated the Board can choose a date to continue hearing these petitions.

Mr. Yates made a motion to move BZA 24-06 and BZA 24-07 to the April meeting. *Ms. Browning* and *Mr. Earl* seconded the motion.

BZA Roll Call: *Mr. Yates*, Yes; *Ms. Browning*, Yes; *Mr. Earl*, Yes; *Ms. Proctor*, Yes.

BZA 24-06 and BZA 24-07 were approved to be moved to the April meeting with a vote 4 Yes to 0 No.

Good and Welfare

Ms. Proctor questioned an update on the Annual Report.

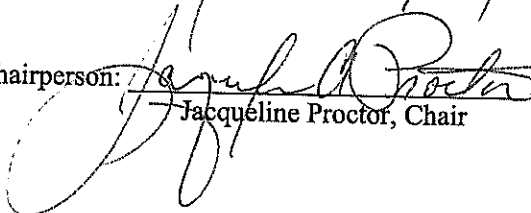
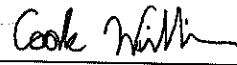
Ms. Shell noted the Annual Report will be ready for review in advance of the March Agenda. Additionally, she announced *Ms. Cross* has submitted her resignation as an Alternate. A new alternate member is needed.

Ms. Proctor asked for an update on the Comprehensive Plan. *Ms. Shell* explained the plan is on hold too. A document is being created based off of the feedback from the last steering committee meeting that will help explain changes that will be proposed to future land use.

Ms. Proctor questioned when the Annual Report will be ready. *Ms. Shell* stated the Annual Report will be ready in the next couple of weeks. She announced *Mr. Williams* will be staffing the March meeting and potentially the April meeting.

Ms. Proctor adjourns the meeting at 7:28 p.m.

Date approved: March 19, 24

Chairperson:  Prepared by: 
Jacqueline Proctor, Chair Cade Williams, Planner II