FLUVANNA COUNTY BOARD OF ZONING APPEALS
Fluvanna County Morris Room
132 Main Street, Palmyra, VA 22963

May 17, 2022 at 7:00 pm

| TAB | AGENDA ITEMS | (VIRTUAL) AGENDA
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<td>REGULAR MEETING</td>
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1. CALL TO ORDER: Jason Overstreet, Senior Planner

2. 2022 Organizational Meeting
   - Election of the 2022 BZA Officers
   - Adoption of 2022 Meeting Schedule

3. REVIEW AND APPROVAL OF MINUTES
   - Draft Minutes of March 18, 2021

4. PUBLIC HEARING

BZA 22:01 – Cardinal Ventures, Inc.
A Variance request to Section 22-4-3 (F) minimum side yard to allow for the reduction of the side yard setback from fifty (50) feet to seven (7) feet in order to allow a boundary line adjustment to the northern property line of Tax Map 44 Section A Parcel 20. The subject property is zoned A-1, Agricultural, General and is known as 4230 Stage Junction Road. The property is located in the Columbia Election District and is in the Rural Preservation Planning Area.

5. UNFINISHED BUSINESS
   - None

6. NEW BUSINESS
   - None

7—ADJOURN

Douglas Miles
Zoning Administrator Review

PLEDGE OF ALLEGIANCE

I pledge allegiance to the flag

Fluvanna County…The heart of central Virginia and your gateway to the future!

For the Hearing-Impaired – Listening device available in the Board of Supervisors Room upon request. TTY access number is 711 to make arrangements.
For Persons with Disabilities – If you have special needs, please contact the County Administrator’s Office at 591-1910.
of the United States of America
and to the Republic for which it stands,
one nation, under God, indivisible,
with liberty and justice for all.

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ORDER

1. It shall be the duty of the Chairman to maintain order and decorum at meetings. The Chairman shall speak to points of order in preference to all other members.

2. In maintaining decorum and propriety of conduct, the Chairman shall not be challenged and no debate shall be allowed until after the Chairman declares that order has been restored. In the event the Commission wishes to debate the matter of the disorder or the bringing of order; the regular business may be suspended by vote of the Commission to discuss the matter.

3. No member or citizen shall be allowed to use abusive language, excessive noise, or in any way incite persons to use such tactics. The Chairman shall be the judge of such breaches, however, the Commission may vote to overrule both.

4. When a person engages in such breaches, the Chairman shall order the person’s removal from the building, or may order the person to stand silent, or may, if necessary, order the person removed from the County property.

PUBLIC HEARING RULES OF PROCEDURE

1. PURPOSE
   - The purpose of a public hearing is to receive testimony from the public on certain resolutions, ordinances or amendments prior to taking action.
   - A hearing is not a dialogue or debate. Its express purpose is to receive additional facts, comments and opinion on subject items.

2. SPEAKERS
   - Speakers should approach the lectern so they may be visible and audible to the Commission.
   - Each speaker should clearly state his/her name and address.
   - All comments should be directed to the Commission.
   - All questions should be directed to the Chairman. Members of the Commission are not expected to respond to questions, and response to questions shall be made at the Chairman’s discretion.
   - Speakers are encouraged to contact staff regarding unresolved concerns or to receive additional information.
   - Speakers with questions are encouraged to call County staff prior to the public hearing.
   - Speakers should be brief and avoid repetition of previously presented comments.

3. ACTION
   - At the conclusion of the public hearing on each item, the Chairman will close the public hearing.
   - The Commission will proceed with its deliberation and will act on or formally postpone action on such item prior to proceeding to other agenda items.
   - Further public comment after the public hearing has been closed generally will not be permitted.
MOTION: I move to elect _______________ as Chairman of the Fluvanna County Board of Zoning Appeals for the calendar year of 2022.

MOTION: I move to elect _______________ as Vice Chairman of the Fluvanna County Board of Zoning Appeals for the calendar year of 2022.

AGENDA  Board of Zoning Appeals  May 17, 2022

SUBJECT: Election of Officers

DISCUSSION: As has been your practice in the past, the Community Development Director opens the meeting and calls for the nomination and election of the Chairman.

Upon the election of the Chairman, the elected chairman will then call for the nomination and election of the Vice Chairman.

The Annual or Organizational meeting of the Board of Zoning Appeals will be conducted first and then move to the Regular meeting in order to review all the BZA agenda items.

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______________________________
Douglas Miles, AICP, CZA, Community Development Director
**2022 Board of Zoning Appeals**

### Board of Zoning Appeals Meeting Dates at 7:00 pm
- January 18, 2022
- February 15, 2022
- March 15, 2022
- April 19, 2022
- May 17, 2022
- June 14, 2022
- July 19, 2022
- August 16, 2022
- September 20, 2022
- October 18, 2022
- November 15, 2022
- December 20, 2022

BZA meetings may be Subject to BZA cancellation throughout 2022

Fluvanna County Adm. Building
132 Main Street—Morris Room
Palmyra, Virginia 22963

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**Fluvanna County Planning & Community Development Department**
132 Main Street / Post Office Box 540
Palmyra, VA 22963 / 434.591.1910

**Douglas Miles, AICP, CZA, Director**
E-mail: dmiles@fluvannacounty.org
I. OBJECTIVES; READOPTION AND AMENDMENT
This Board of Zoning Appeals, established pursuant to an ordinance adopted by the Fluvanna County Board of Supervisors and effective on the 1st day January 1974, adopted the following provisions in order to facilitate its powers and duties in accordance with (Chapter 11, Title 15, Article 8, Section 15.1-495 Code of Virginia, 1950 as amended). These Bylaws are hereby amended and readopted pursuant to Title 15.2, Subtitle II, Ch. 22, Art. 7 of the Code of Virginia (1950), as amended, and are effective on and after January 10, 2017.

II. TITLE
The official title of this board shall be the Fluvanna County Board of Zoning Appeals.

III. RULES FOR MEMBERS
Members having any interest or personal concern over a case shall so state and shall disqualify themselves from acting on that case; and shall, in all cases, comply with the Code of Virginia regarding conflicts of interests (Title 2.2, Subtitle I, Part E, Ch. 31).

IV. SELECTION OF OFFICERS
The officers of the Board of Zoning Appeals shall consist of a chairman, vice chairman, and a secretary who shall be elected by the board in accordance with Virginia Code Sec. 15.2-2308-C. The secretary may or may not be a member of the board.

Each officer shall be elected for a term of one year and may be reelected; except that the secretary, if not a member of the board, may be appointed for an indefinite term and continue office during the pleasure of the board.

Nominations shall be made by members from the floor at the first regular meeting of each calendar year. A candidate receiving a majority vote of the entire membership of the board shall be declared elected and take office immediately and serve for one year or until his successor shall take office.

Vacancies in office shall be filled immediately by regular election procedures.

V. DUTIES OF OFFICERS
The chairman shall be a citizen member of the Board of Zoning Appeals and shall preside at all meetings for the board; sign all actions passed by the board certifying that the same were duly adopted. After his signature is affixed to any action, the same shall be considered immediately entered as a public record.

The vice chairman shall be a citizen member of the board and shall act in the absence or inability of the chairman to act; and shall have the powers to function in the same capacity of the chairman in cases of the chairman’s inability to act.

The secretary shall keep a written record of all business transacted by the board;
Notify all members and other parties as the chairman may direct on all meetings;
Keep a file of all official records and reports if the board;
Certify all maps, records and reports of the board;
Serve notice of all hearings and public meetings; attend to correspondence of the board as hereinafter prescribed;
Keep a set of minutes as hereinafter prescribed, together with a verbatim record of all proceedings of the board; and
Prepare and be responsible for the publishing of notices and advertisements relating to public hearings in section VI of these By-Laws.

VI. MEETINGS

Regular meetings of the Board of Zoning Appeals shall be held the Third Tuesday of the month beginning at 7:00 P.M except as provided by a majority vote of the board.

When a meeting date falls on a legal holiday, the meeting shall be held on the following day unless otherwise designated by the chairman.

Special meetings may be called at the request of a quorum of the membership or by the chairman when appropriate work load require same to be held. Written notice of meetings shall be given to each member at least five days prior to such meetings and shall state the purpose and time of the meeting. Such notice may be delivered by regular mail or by electronic transmission, to the extent authorized by the addressee.

All regular hearings, records, and accounts shall be open to the public as provided by law. Closed meetings may be held in accordance with the Virginia Freedom of Information Act (Title 2.2, Subtitle II, Part B, Ch. 37).

A majority of the membership of the board shall constitute a quorum. The board shall fix a reasonable time for the hearing of a application or appeal, give public notice thereof pursuant to Virginia Code Sec. 15.2-2311, shall, in addition, cause such notice to be advertised in accordance with the provisions of Virginia Code Sec. 2204, and shall decide the same within ninety(90) days. In exercising its powers, the board my reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from. The concurring vote of a majority of all members shall be necessary to reverse any order, requirement, and decision, or determination of an administrative officer or to decide in favor of the applicant or any matter upon which it is required to pass under the ordinance or to effect any variance from the zoning ordinance. Voting shall be by roll call, and a record of the vote shall be kept as a part of the minutes.

Except as otherwise expressly provided by these Bylaws or by law, procedures for meetings of the board shall be governed by Robert’s Rules of Order, 11th Edition.

VII. ORDER OF BUSINESS

The order of business for a regular meeting shall be:

1. Call to order by the chairman;
2. Roll call;
3. Determination of quorum;
4. Approval of minutes;
5. Report of the secretary;
6. Report of special committees (if any);
7. Unfinished business;
8. Public hearings;
9. Closed meeting (if any);
10. Adjournment

The secretary shall take down motions as accurately as possible to reflect the intent of the board. Any member may require that the secretary read back each motion before a vote is taken. The names of the persons making and seconding motions shall be recorded by the secretary.

The Board of Zoning Appeals shall keep a set of all minutes for all regular, adjourned and special meetings as well as committee meetings.

The secretary shall sign all minutes and certify copies following the adoption of the minutes with any corrections.

VIII. HEARINGS
In addition to those required by law the board may at its discretion hold public hearings when it decides such hearings will be in the public’s interest.

The chairman of the board may administer oaths and compel the attendance of witnesses. The secretary shall notify the parties in interest and the Zoning Administrator of its decision.

IX. CORRESPONDENCE
It shall be the duty of the secretary to draft and sign all correspondence necessary for the Board. It shall be the duty of the secretary to communicate by writing, by telephone or by electronic communication as authorized by these Bylaws or by law whenever necessary to make communications that cannot be carried out as rapidly as required through direct correspondence.

All official papers and plans involving the authority of the board shall bear the signature of the chairman or acting chairman. Copies of same shall be certified by the secretary.

X. AMENDMENTS
These rules may be changed by a majority vote of the entire membership. The board may temporarily suspend any of the rules by a unanimous vote of members present.
2022 Fluvanna County Board of Zoning Appeals

Harold Morris
Mailing & Physical Address: 17 Oak Grove Rd, Palmyra VA 22963
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Email Addresses: haroldmorris@embarqmail.com and hmorris@fluvannacounty.org
Term Ends: 12/31/2024

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Peter von Keyserling
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FLUVANNA COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING MINUTES
Fluvanna County Library
214 Commons Boulevard
Palmyra, VA 22963
May 18, 2021
7:00 pm (Virtual Meeting)

MEMBERS PRESENT: Harold Morris
                      Peter Von Keyserling
                      Easton Loving
                      Ed Zimmer
                      Carol Walker

STAFF PRESENT: Eric Dahl, County Administrator
               Frederick Payne, County Attorney
               Douglas Miles, Community Development Director
               Jason Overstreet, Senior Planner
               Valencia Porter, Administrative Program Specialist

MEMBERS ABSENT: None

1. CALL TO ORDER, THE PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE:
   At 7:00 pm, Douglas Miles called the May 18, 2021 regular Meeting to order, followed by the
   Pledge of Allegiance and a moment of silence

2. 2021 Organizational Meeting:

   | MOTION: | I move to elect Morris as Chairman of the Fluvanna County Board of Zoning Appeals for the calendar year of 2021 |
   | MEMBER: | Morris  | Keyserling | Loving | Zimmer | Walker |
   | ACTION: | Second  | Motion     |        |        |        |
   | VOTE:   | Yes     | Yes        | Yes    | Yes    | Yes    |
   | RESULT: | 5-0 Approved |

Douglas Miles turned the meeting over to Chairman Harold Morris.

   | MOTION: | I move to elect Peter Keyserling as Vice Chairman of the Fluvanna County Board of Zoning Appeals for the calendar year of 2021 |
   | MEMBER: | Morris (Chair)  | Keyserling | Loving | Zimmer | Walker |
   | ACTION: | Motion     | Seconded  |        |        |        |
   | VOTE:   | Yes        | Yes       | Yes    | Yes    | Yes    |
   | RESULT: | 5-0 Approved |

   | MOTION: | Board of Zoning Appeals Meeting Calendar 2021 |
   | MEMBER: | Morris (Chair)  | Keyserling (Vice Chair) | Loving | Zimmer | Walker |
   | ACTION: | Motion     | Seconded  |        |        |        |
   | VOTE:   | Yes        | Yes       | Yes    | Yes    |
   | RESULT: | 5-0 Approved |

3. MINUTES:
4. PUBLIC HEARINGS:

BZA 21:01 – Edward Theodore & Mary A. Whalen – Jason Overstreet, Senior Planner

A Variance request to Section 22-7-11 (B) setback lines to allow for the reduction of the rear yard setback from thirty (30) feet to twenty-five (25) feet to construct a rear addition on Tax Map 9 Section 13 Parcel 1. The subject property is zoned R-3, Residential Planned Community District within Village Oaks residential subdivision and is known as 8 Virginia Avenue. The property is located in the Palmyra Election District and is in the Rivanna Community Planning Area.

Chairman Morris asked the applicant if they would like to come forward and speak. Edward Whalen, applicant: Stated that when purchasing the home they asked than will it be acceptable to add a sunroom to the back of their home, at time of purchasing someone quoted them and said yes that shouldn’t be a problem. After purchasing, they was told that they would have to ask the Home Owners Association, which was told to come to the county and ask for a Variance.

Chairman Morris open the Public Hearing at 7:13, Chairman Morris than closed public hearing at 7:14. Chairman Morris has now opened it up for discussion.

Mr. Zimmer: Asked about the 30 foot setback, is it part of the community or the convenience?
Mr. Miles: replied, yes sir, when they rezone Village Oaks to R-3 they created a master plan. With a master plan they set and stone to establish their setbacks. So the 30 foot setbacks is part of the Master Plan.
Mr. Payne: Yes, it is both private restriction and public
Mr. Zimmer: Asked what are some of the other setbacks?
Mr. Miles: Stated that they are very similar in other districts. For example in R-4 there are 25 foot setbacks.
Keyserling: Stated that he doesn’t see no objections
Zimmer: Stated that he doesn’t see no objections either
Loving: Stated that there are a couple of circumstances that make this really unique because of the open space. I guess there are some questions in my mind to whether or not we meet all the test in the Variance, but I’m inclined to support.

MOTION: I move to Approve BZA 21:01, a request for a Variance to Fluvanna County Section 22-7-11 (B) of the Zoning Ordinance to allow for the reduction of the minimum rear yard setback from thirty (30) feet to twenty-five (25) feet, for the purpose of adding an addition to the existing single-family, detached dwelling that is located on Tax Map 9, Section 13, Parcel 1 and is known as 8 Virginia Avenue.

MEMBER: Morris (Chair) Loving Zimmer Keyserling
ACTION: Motion Seconded
VOTE: Yes Yes Yes Yes Abstained
RESULT: 4-0-1 Approved

5. UNFINISHED BUSINESS:
None

6. NEW BUSINESS: Communications:
2020 General Assembly changes to the Board of Zoning Appeals – Fred Payne, County Attorney
Sec. 22-17-8A. – Flood protection.

This section is adopted pursuant to the authority granted to localities by section 15.2-2280 and section 15.2-984 of the Code of Virginia.

Sec. 22-18-1. – Board of zoning appeals.

(A) A board consisting of five (5) members shall be appointed by the Circuit Court of Fluvanna County. Members of the board shall be residents of Fluvanna County. Members of the board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing court after hearing held after at least fifteen (15) days’ notice. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(B) The term of office shall be for five (5) years, except that of the first five (5) members appointed, one (1) shall serve for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Members of the board shall hold no other public office in the County, except that one of the five appointed members may be an active member of the planning commission, any member may be appointed to serve as an officer of election as defined in section 24.2-101 of the Code of Virginia, and any member may serve as an elected official of the Town of Scottsville.

Sec. 22-18-2. – Powers of the Board of Zoning Appeals.

(1) Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability;

(2) Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the Board of Zoning Appeals under this section is required in order for such request to be granted.

Sec. 22-18-4. – Applications for variances, appeals to the Board of Zoning Appeals.

(1) Any written notice of a zoning violation or a written order of the Zoning Administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within thirty (30) days in accordance with this section, and that the decision shall be final and unappealable if not appealed within thirty (30) days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given and the Zoning Administrator’s written order is sent by registered or certified mail to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. There shall be a rebuttable presumption that the property owner’s last known address is
that shown on the current real estate tax assessment records, or the address of a
registered agent that is shown in the records of the Clerk of the State Corporation
Commission. A written notice of a zoning violation or a written order of the Zoning
Administrator that includes such statement sent by registered or certified mail to, or
posted at, the last known address of the property owner as shown on the current real
estate tax assessment books or records shall be deemed sufficient notice to the
property owner and shall satisfy the notice requirements of this section.

Sec. 22-18-7. – Certiorari to review decisions of Board of Zoning Appeals.
(A) Any person or persons jointly or severally aggrieved by any decision of the Board
of Zoning Appeals, or any taxpayer or any officer, department, board or bureau of the
County, may file with the clerk of the circuit court for the County a petition that shall be
styled "In Re: date Decision of the Board of Zoning Appeals of Fluvanna
County" present to the circuit court of the County a petition specifying the grounds on
which aggrieved within thirty (30) days after the filing of the decision in the office of
the board.

(B) Upon the presentation of such petition, the court shall allow a writ of certiorari to
review the decision of the Board of Zoning Appeals and shall prescribe therein the
time within which a return thereto must be made and served upon the secretary of
the Board of Zoning Appeals or, if no secretary exists, the chair of the Board of Zoning
Appeals, which shall not be less than 10 days and may be extended by the court. Once
the writ of certiorari is served, the Board of Zoning Appeals shall have 21 days or as
ordered by the court to respond to the relator's attorney, which shall not be less than ten
(10) days and may be extended by the court. The allowance of the writ shall not stay
proceedings upon the decision appealed from, but the court may, on application, on
notice to the board and on due cause shown, grant a restraining order.

(C) Any review of a decision of the board shall not be considered an action against the
board and the board shall not be a party to the proceedings; however, the board shall
participate in the proceedings to the extent required by this section. The governing body,
the landowner, and the applicant before the Board of Zoning Appeals shall be necessary
parties to the proceedings in the circuit court. The court may permit intervention by any
other person or persons jointly or severally aggrieved by any decision of the Board of
Zoning Appeals.

(D) The Board of Zoning Appeals shall not be required to return the original papers
acted upon by it, but it shall be sufficient to return certified or sworn copies thereof as
may be called for by such writ. The return shall concisely set forth such facts as may
be pertinent and material to show the grounds of the decision appealed from and shall
be verified.

(E) The Court may reverse or affirm, wholly or partly, or may modify the decision
brought up for review.

(F) Costs shall not be allowed against the locality or the governing body, board,
unless it shall appear to the court that it acted in bad faith or with malice in making the
decision appealed from. In the event the decision of the board is affirmed and the court
finds that the appeal was frivolous, the court may order the person or person who
requested the issuance of the writ of certiorari to pay the costs incurred in making a
return of the record pursuant to the writ of certiorari. If the petition is withdrawn
subsequent to the filing of the writ, the locality or the governing body may request that
the court hear the matter on the question of whether the appeal was frivolous.

7. ADJOURNMENT:

Chair adjourned the Board of Zoning Appeals meeting of May 18, 2021 at 7:37pm.

Minutes recorded by Valencia Porter, Administrative Program Specialist.
Harold Morris, Chairman
Fluvanna County Board of Zoning Appeals
BOARD OF ZONING APPEALS STAFF REPORT

To: Board of Zoning Appeals  
From: Jason Overstreet, Senior Planner

Case: BZA 22:01 Variance  
District: Columbia Election District

Date: May 17, 2022  
Tax Map: 44 Section A Parcel 20

General Info: The Board of Zoning Appeals is scheduled to hear this request at 7:00 pm on Tuesday, May 17, 2022 in the Morris Room of the County Administration Building.

Applicant: Cardinal Ventures Inc.

Owner: Eric Wilkening

Request: BZA 22:01 Cardinal Ventures Inc: A Variance request to Section 22-4-3 (F) minimum side yard to allow for the reduction of the side yard setback from fifty (50) feet to seven (7) feet in order to allow a boundary line adjustment to the northern property line of Tax Map 44 Section A Parcel 20. The subject property is zoned A-1, Agricultural, General and is known as 4230 Stage Junction Road. The property is located in the Columbia Election District and is in the Rural Preservation Planning Area.

Code Section: Fluvanna County Code Sec. 22-4-3. (F) of the Zoning Ordinance

Location: The subject property is located in the Columbia Election District on Route 659, Stage Junction Road. The property is known as 4230 Stage Junction Road.

(Attachment B)

Existing Zoning: A-1, Agricultural, General

Existing Land Use: Residential use

Adjacent Land Use: Adjacent properties are zoned A-1, Agricultural, General

Comprehensive Plan: Rural Preservation Planning Area
**Analysis:**

The subject lot was created in 1948 and consists of three (3) acres. The existing dwelling was built in 1952 and is currently considered non-conforming due to the property line on the north side of the lot bisecting the existing dwelling (Attachment D).

Sec. 22-4-3. (F) of the Zoning Ordinance requires a minimum side yard of 50 feet.

(F) Minimum side yard: 50 feet

The applicant is requesting a variance in order to reduce the minimum side yard setback from 50 feet to 7 feet. If approved, the variance would allow a boundary line adjustment to be made to the northern property line thereby resulting in a more conforming lot. The adjacent affected parcel owner has indicated their support of the boundary line adjustment.

As stated in Section 22-18-2(B) of the Fluvanna County Code, the Board of Zoning Appeals must consider certain statutory considerations when reviewing a variance request.

The Board may grant a variance if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:

i. the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

ii. the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

iii. the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

iv. the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

v. the relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.

The Board must make each of the above findings in order to grant a variance as required by the Code of Virginia. Approval of a variance that does not meet each finding would be unlawful. The Board may impose, as part of an approval, conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
After evaluation of the above factors, staff has the following comments:

The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance:

The subject property was purchased as an investment for the applicant. The applicant purchased the property with the understanding that it could be renovated and sold. There was not an existing survey at the time the applicant purchased the property therefore he was unaware of the boundary line issue.

The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area:

The granting of this variance will improve the subject property as well as the adjacent property.

The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance:

While there are many existing non-conforming lots within the county, this lot’s non-conforming condition is particularly irregular and therefore will not require an ordinance amendment.

The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property:

The proposed Boundary Line Adjustment will not affect the existing residential use of the property nor will it necessitate a change in the subject property’s zoning classification.

The relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application:

A special use permit process is not available to the applicant and no zoning ordinance amendment has been proposed nor is there one in process for this section of the ordinance.

A draft resolution is attached. (Attachment E)

Suggested Motion:

I move to (Approve/deny/defer) BZA 22:01, Cardinal Ventures Inc, a variance request to Fluvanna County Code Sec. 22-4-3(F) of the Zoning Ordinance to allow for the reduction of the minimum side yard setback from fifty (50) feet to seven (7) feet, and for the purpose of allowing a boundary line adjustment of the property identified as Tax Map 44, Section A, Parcel 20.
Attachments:
A – Application
B – Public Hearing Notice
C – Aerial Vicinity Map
D – Zoning Map
E – Boundary Adjustment Plats
F – Draft Resolution

Copy:
Applicant: Eric Wilkening via email – eric@newagainhouses.com
File
OWNER OF RECORD: Cardinal Ventures Inc

E911 Address: 1209 Agnese St Charlottesville VA

Phone: 5408426459 Fax: 

Email: Eric@newagainhouses.com

REPRESENTATIVE: Eric Wilkening

E911 Address: 1209 Agnese St Charlottesville

Phone: 5408426459 Fax: 

Email: Eric@newagainhouses.com

TAX MAP AND PARCEL(S): 44-A-20

ACREAGE: 3.0 ZONING: A-1

E911 ADDRESS OF PARCEL: 4230 Stage Junction Rd

DESCRIPTION OF PROPERTY: White Brick rancher 1 mile west of Shannon Hill Rd on Stage Junction rd

REQUEST FOR A VARIANCE FROM SECTION 22-5-6 HOUSE IS EXISTING

IN ORDER TO BUILD

Fill in only the line(s) that apply to your request(s)

<table>
<thead>
<tr>
<th>Total Area</th>
<th>Applicant has</th>
<th>Code requires or permits</th>
<th>Variance requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Width</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front yard setback</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum side yard setback</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total side yard setback</td>
<td>6.7 ft</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rear yard setback</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public road frontage</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (write in)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Two copies of a plan must be submitted, showing size and location of the lot, dimensions and location of the proposed building, structure or proposed use, and the dimensions and location of the existing structures on the lot.

By signing this application, the undersigned authorizes entry onto the property by County employees, the Planning Commission, the Board of Supervisors, and the Board of Zoning Appeals during the normal discharge of their duties in regard to this request.

All plans must be folded prior to submission to the Planning Department. Rolled plans will not be accepted.

Owner/Applicant Name (Please Print) Eric Wilkening

Date 4/27/22

Owner/Applicant Signature

OFFICE USE ONLY

Date Received: PH Sign Deposit Received: Application #: BZA

$550 plus mailing cost and fee paid: Mailing Costs: $20.00 Adjacent Property Owner (APO) after 1st 15, Certified

Election District: Planning Area:

Approved Denied Date: Zoning Administrator:

Fluvanna County Department of Planning & Community Development * Box 540 * Palmyra, VA 22963 * (434)591-1910 * Fax (434)591-1911

This form is available on the Fluvanna County website: www.fluvannacounty.org

Form Updated June 21, 2017
IMPROVEMENTS PROPOSED
Describe the Improvements proposed. State whether new buildings or structures are to be constructed, existing buildings or structures are to be used, or additions made to existing buildings or structures.
The boundary line adjustment is requested because the current boundary line between 44 A 20 and 44 A 19 goes through the house located at 4230 Stage Junction Rd (44 A 20). The proposed boundary adjustment follows what has been the assumed boundary.

SPECIAL CONDITIONS
Relate here the special conditions or circumstances (topography, soil type, shape of property) peculiar to the above described land, building, or structure or to the intended use or development of the land, building or structure involved that do not apply generally to other property in the same district.
The typical setback requirement cannot be met with the current proposed boundary adjustment.

UNNECESSARY HARDSHIP
Describe here how the literal interpretation and enforcement of Section 22-5-6 of the Zoning Ordinance would effectively prohibit or unreasonably restrict the use or intended use or development of the properties involved by the applicant.
If an exception to the side yard setback is not granted, then the boundary line adjustment can not be recorded. If this boundary cannot be changed, both properties will continue to have issues with a clean title, resulting in problems whenever they are sold or refinanced.

ADJACENT PROPERTY
Describe the effects of this variance on adjacent property and the surrounding neighborhood. How will adjoining property owners be protected.
The boundary line adjustment will only affect the one adjoining parcel. I have spoken with the owner of the adjoining parcel and he is happy to complete the land transfer so that the issues are resolved. He was not away of the boundary/house being in conflict with each other. The proposed adjustment is what the neighbor, surveyor, and I agree makes sense to have as the new boundary.

PLAN
Furnish plot plan showing boundaries and dimensions of property, width of abutting right-of-ways, location and size of buildings and structures on the site, roadways, walks, off-street parking and loading space, landscaping and the like. (Architect’s sketches showing elevations of proposed buildings and structures and complete plans are desirable and may be required with the application if available.)
Both the existing plat and proposed plat with boundary line adjustment are attached.
To whom it may concern,

I have applied for a variance that would allow the boundary line adjustment for this house to be less than the amount required by the zoning ordinance. As the property is now, the boundary line passes through the house that I own. Please see both the existing plat and proposed plat with the boundary line adjustment for reference. The following is a little bit of background information on the property that will hopefully give some context.

I purchased the house last May, and am now selling the property after updating the house with new floors, paint, kitchen, and bathroom etc. I did nothing to change the footprint of the house. When I purchased the property I was not required by my lender to get a survey, nor was there any indication when I bought the property that a problem would be encountered with the boundary lines. Now that the house is under contract to sell, the buyer’s lender has required a survey. Her loan product is a USDA direct loan which has much more strict requirements than any traditional loan product that would normally be used.

I bought the property from Quindara Payne, who had inherited the property from her aunt, Catherine McCowan, who gained ownership of the property when her husband Allen McCowan died in 2006. Allen McCowan gained ownership of the property when it was conveyed to him in 1948 by TJ Loving and Virginia Loving. As best I can tell, that is when the subject property was formed as a parcel. According to county records the house itself was built in 1952.

I have spoken with the neighbor, Markell Henderson, who owns the adjoining property (44 A 19), and he was able to give me some additional information. He was not aware that the boundary line was passing through the house, and assumed it paralleled the gravel driveway on his side of the line and followed the hedge that runs perpendicular to Stage Junction Rd. He is happy to have the boundary line corrected so that it reflects the current assumptions and avoids any issues in the future.

He inherited the property from his grandfather who, as I understand it, was siblings with Allen McCowan. Over the years it seems the two families were close, and there was not much thought given to boundary lines. I imagine when the houses were built in the 50’s, they were put up without a survey being done, but I’m not sure how to confirm this. It seems that part of the problem is that the lines for the lots were assumed to run 90 degrees from the road, but instead go towards the back of the property at an angle. The proposed boundary line adjustment would start at about 90 degrees from the road, but after passing the house would then come back into the original boundary line along a wooden fence that is being treated as the boundary line currently.

Please let me know if there are any further questions or information I could provide. Thank you for your time in helping to get this matter resolved.

-Eric Wilkening
COMMONWEALTH OF VIRGINIA
COUNTY OF FLUVANNA
Public Hearing Sign Deposit

Name: Ewil W baking
Address: 1209 Agnes St
City: charlottesville
State: VA Zip Code: 22901

I hereby certify that the sign issued to me is my responsibility while in my possession. Incidents which cause damage, theft, or destruction of these signs will cause a partial or full forfeiture of this deposit.

Ewil W baking 4/13/22
Applicant Signature Date

*Number of signs depends on number of roadways property adjoins.

OFFICE USE ONLY

Application #: BZA CPA SUP ZMP ZTA

$90 deposit paid per sign*: Approximate date to be returned:

Fluvanna County Department of Planning & Community Development * Box 540 * Palmyra, VA 22963 * (434)591-1910 * Fax (434)591-1911

This form is available on the Fluvanna County website: www.co.fluvanna.va.us
Pursuant to Virginia Code Section 15.2-2204, a public hearing will be held in the Morris Room of the Fluvanna County Administration Building, located at 132 Main Street in Palmyra, Virginia for citizens of the County to have the opportunity to appear before or be online and be heard by the Board of Zoning Appeals on the following request:

**BZA 22:01 Cardinal Ventures Inc:** A Variance request to Section 22-4-3 (F) minimum side yard to allow for the reduction of the side yard setback from fifty (50) feet to seven (7) feet in order to allow a boundary line adjustment to the northern property line of Tax Map 44 Section A Parcel 20. The subject property is zoned A-1, Agricultural, General and is known as 4230 Stage Junction Road. The property is located in the Columbia Election District and is in the Rural Preservation Planning Area.

The regular meeting of the Board of Zoning Appeals will be held in person and attendees can attend in person, virtually online or by telephone. Instructions for public participation during the meeting will be made available on the Fluvanna County website. Interested persons may submit written comments prior to the scheduled meeting to joverstreet@fluvannacounty.org and any questions may be directed to Jason Overstreet, Senior Planner at 434-591-1910, between 8:00 am and 5:00 pm, Monday – Friday.

To: Fluvanna Review  
From: Jason Overstreet, Senior Planner  

Advertise on the following dates: May 5 and May 12, 2022

Bill to: Fluvanna County Planning & Community Development  
Post Office Box 540, Palmyra, Virginia 22963  
Attn: Valencia Porter, Administrative Programs Specialist  
Email: vporter@fluvannacounty.org (434) 591-1910
MEMORANDUM

Date: May 3, 2022
From: Valencia Porter
To: Douglas Miles
Subject: APO Memo Complete

Please be advised the attached letter went out to the attached list of Adjacent Property Owners for the May 17, 2022 Board of Zoning Appeals meeting.
PUBLIC HEARING NOTICE

May 3, 2022

RE: BZA 22:01 Cardinal Ventures Inc. Side Yard Variance Request / Tax Map 44 Section A Parcel 20

This is to notify you that the Fluvanna County Board of Zoning Appeals will hold a public hearing on:

**Meeting:** Board of Zoning Appeals Public Hearing

**Date:** Tuesday, May 17, 2022 at 7:00 pm

**Location:** Morris Room, County Administration Building, 132 Main Street, Palmyra, VA

*Note:* This hearing will not be held at the Carysbrook Performing Arts Center

The applicant will attend this Public Hearing for a side yard Variance request that is described as follows:

**BZA 22:01 Cardinal Ventures Inc:** A Variance request to Section 22-4-3 (F) minimum side yard to allow for the reduction of the side yard setback from fifty (50) feet to seven (7) feet in order to allow a boundary line adjustment to the northern property line of Tax Map 44 Section A Parcel 20. The subject property is zoned A-1, Agricultural, General and is known as 4230 Stage Junction Road. The property is located in the Columbia Election District and is in the Rural Preservation Planning Area.

The regular meeting of the Board of Zoning Appeals will be held in person and attendees can attend in person, virtually online or by telephone. Instructions for public participation during the meeting will be made available on the Fluvanna County website. Interested persons may submit written comments prior to the scheduled meeting to joverstreet@fluvannacounty.org and any questions may be directed to Jason Overstreet, Senior Planner at 434-591-1910, between 8:00 am and 5:00 pm, Monday – Friday.

Sincerely,

*Jason Overstreet*

Jason Overstreet, CZA
Senior Planner
<table>
<thead>
<tr>
<th>TAX MAP</th>
<th>NAME</th>
<th>ADDRESS</th>
<th>CITY/STATE/ZIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>44-A-13</td>
<td>KAREN LOVING BRANAGAN</td>
<td>121 CARRIE ELIZABETH COURT</td>
<td>GASTONIA, NC 28056</td>
</tr>
<tr>
<td>44-A-19</td>
<td>PRESELY L LE BLAND ET AL</td>
<td>4254 STAGE JUNCTION RD</td>
<td>COLUMBIA, BA 23038</td>
</tr>
<tr>
<td>44-A-20</td>
<td>CARDINAL VENTURES INC</td>
<td>1209 AGNESE ST</td>
<td>CHARLOTTESVILLE, VA 22901</td>
</tr>
<tr>
<td>43-4-1BA</td>
<td>WILLIAM &amp; SARAH MINES</td>
<td>4201 STAGE JUNCTION RD</td>
<td>COLUMBIA, VA 23038</td>
</tr>
<tr>
<td>44-A-21</td>
<td>GEORGE &amp; ELEANORA BLAND ET AL</td>
<td>310 STONERIDGE WAY</td>
<td>COVINGTON, GA 30016</td>
</tr>
</tbody>
</table>
KAREN L. BRANAGAN
INST. #210005623
TM 44-A-13

Attachment D

2.94 ACRES
TM 44-A-20

1 SY. BRICK
#4320

WOOD FENCE

Wells

SHED

Gravel Drive

N18°30'30" W

210.00'

N85°23'30" E

649.70

1 ML. +/- TO
STATE ROUTE 605

OLD STAGE ROAD
STATE ROUTE 659
30° PRESCRIPTIVE R/W

I HEREBY CERTIFY THAT THE
POSITIONS OF EXISTING IMPROVEMENTS
WERE ESTABLISHED BY A CURRENT
FIELD SURVEY, AND UNLESS OTHERWISE
SHOWN, THERE ARE NO VISIBLY
ENDOCHAMENTS.

THIS PROPERTY IS LOCATED IN
H.U.D. FLOOD ZONE X.
TITLE REPORT NOT FURNISHED

Dan Carney & Associates
Professional Land Surveying
P.O. Box 15
Hadensville, Va 23067
804-487-3611

MARCH 23, 2022
SCALE: 1" = 80'
OWNER: CARDINAL VENTURES, INC., INST. 210002869
PLAT SHOWING BOUNDARY LINE ADJUSTMENT ON
TAX MAP PARCELS 44-A-20 AND 44-A-19
COLUMBIA DISTRICT
FLUVANNA COUNTY, VIRGINIA
APRIL 4, 2022 SCALE: 1" = 80'
OWNER: CARDINAL VENTURES, INC., INST. 210002869

KAREN L. BRANAGAN
INST. #210005623
TM 44-A-13

Bland
DB 316 PG 464
PLAT: DB 32 PG 103
TM 44-A-21

Bland et al.
DB 425 PG 589
TM 44-A-19

0.095 ACRE
4149 SQ. FT.
TO BE ADDED TO
PARCEL 44-A-20

0.095 ACRE
4149 SQ. FT.
TO BE ADDED TO
PARCEL 44-A-20

2.938 ACRES
TM 44-A-20

3.033 ACRES
AFTER ADJUSTMENT

I HEREBY CERTIFY THAT THE BOUNDARY SHOWN HEREIN IS BASED ON A CURRENT FIELD SURVEY. THIS PROPERTY IS LOCATED IN H.U.D. FLOOD ZONE X. TITLE REPORT NOT FURNISHED

DANIEL F. CARNEY
Lic. No. 1064

PLAT SHOWING BOUNDARY LINE ADJUSTMENT ON
TAX MAP PARCELS 44-A-20 AND 44-A-19
COLUMBIA DISTRICT
FLUVANNA COUNTY, VIRGINIA
APRIL 4, 2022 SCALE: 1" = 80'
OWNER: CARDINAL VENTURES, INC., INST. 210002869

Professional Land Surveying
P.O. Box 15
Hadensville, Va 23067
804-457-3611

JOB NO. 2216
RESOLUTION APPROVING VARIANCE CASE NUMBER BZA 22:01

BE IT RESOLVED BY THE BOARD OF ZONING APPEALS OF FLUVANNA COUNTY, VIRGINIA, that the strict terms of the Fluvanna County Zoning Ordinance be varied with respect to the property described as set forth in the application for case number BZA 22:01 in the following respects:

BZA 22:01 – Cardinal Venture, Inc.: A Variance request to Section 22-4-3 (F) minimum side yard to allow for the reduction of the side yard setback from fifty (50) feet to seven (7) feet in order to allow a boundary line adjustment to the northern property line of Tax Map 44 Section A Parcel 20. The subject property is zoned A-1, Agricultural, General and is known as 4230 Stage Junction Road. The property is located in the Columbia Election District and is in the Rural Preservation Planning Area.

The Board, having considered the evidence presented to it as reflected in the record of this case, finding as facts that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:

i. the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

ii. the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

iii. the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

iv. the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

v. the relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.

PROVIDED, HOWEVER, that the said variance be subject to the following conditions:
FLUVANNA COUNTY
COMPREHENSIVE PLAN
OPEN HOUSE EVENT

WHEN
Thursday, June 9th
5:00 pm – 7:00 pm

WHERE
Fluvanna Library
Meeting Room
214 Commons Boulevard Palmyra, VA 22963

PROVIDING YOUR INPUT INTO THE 2040 COMPREHENSIVE
PLAN AS AN OPEN HOUSE EVENT AND WITHOUT A FORMAL
PRESENTATION ALLOWING FOR YOUR DIRECT POST-IT NOTE
COMMENTS AND QUESTIONS ONTO THE GIS DISPLAY MAPS

WWW.FLUVANNACOUNTY.ORG AND SEARCH 2040
COMPREHENSIVE PLAN PROCESS FOR MORE INFO

CONTACT: DOUGLAS MILES, AICP, CZA
COMMUNITY DEVELOPMENT DIRECTOR
DMILES@FLUVANNACounty.ORG 434.591.1910

2022 COMP PLAN EVENTS
SCHEDULED ON SECOND THURSDAYS
Mar 10th 4:00 – 6:00
April 14th 5:00 – 7:00
May 12th 5:00 – 7:00

FLUVANNA LIBRARY
COMP PLAN MAPS
WILL BE AVAILABLE
DAILY FOR REVIEW

PLANNING GROUPS
ZION CROSSROADS
AREA PLAN - TJ PDC
STAKEHOLDERS TEAM

RURAL CROSSROADS /
RURAL PRESERVATION
ADVISORY GROUP

HISTORIC
PRESERVATION
ADVISORY GROUP
SUMMER 2022