Virginia: **At the regular meeting of the Chilhowie Board of Zoning Appeals held Thursday, November 19, 2020 at 5:30 p.m.**

Present: **David Gary, Lynn Pease, Cathy Smith and Rebecca Wilkinson-Smith.**

Absent: **Kathy Wright.**

Also Present: John E.B. Clark, Jr., Town Manager/Zoning Administrator, Building Official Randy Sturgill and Secretary Felicia Eller, CMC.

The meeting was held in the Community Room in order to practice Social Distancing due to the COVID-19 pandemic.

Staff Comments and Report:

Mr. John Clark, Town Manager - Zoning Administrator, reported JMB Investments is requesting two variances in order to relocate the Dollar General Store to a lot located across from Smyth Farm Bureau between West Main Street and West Lee Highway. The two variances requested are for one parking space and seven feet to meet a ten-foot set back requirement along West Main Street. Mr. Randy Sturgill, Building Official reviewed the store layout plans.

JMB Investment Company Variance Request:

Mr. Tim Dunaway, JMB Investment Company, reported JMB Investment Company is interested in relocating the existing Dollar General Store to the lot located across from the Smyth Farm Bureau between West Main Street and West Lee Highway. Mr. Dunaway stated they are requesting a variance of one parking space. The Zoning Ordinance requires one parking space for every 250 square foot of retail space therefore the Ordinance is requiring 26 spaces and there are only room for 25 spaces due to the loading dock. The Zoning Ordinance also requires a 10-foot setback along West Main Street and with the building location on the lot only 3 feet is available for the setback therefore JMB Investment Company is requesting a variance of 7 feet.

Mr. Dunaway reported JMB Investment Company is aware the proposed lot is within a floodplain that will require extra grading work to bring the lower corner of the elevation of the lot up to at least 1.5 feet above the floodplain. They are also aware of stormwater drainage issues on the property and plan to install an underground retention but are still reviewing the matter. Mr. Dunaway reported they are currently working with the Virginia Department of Transportation to approve the entrance and exit to the building. He is also aware there is a water and sewer line through the middle of the property that must be relocated prior to construction. The proposed Dollar General building will require three months to build.

Public Hearing:

Mrs. Felicia Eller presented the following:

Notice of Public Hearing
Town of Chilhowie Board of Zoning Appeals (BZA)

Pursuant to the provisions of 15.2-2204, of the Code of Virginia, as amended, the Town of Chilhowie's Board of Zoning Appeals will be holding a Public Hearing on Thursday, November 19, 2020 at 5:30 p.m. at the Chilhowie Town Hall Community Room at 325 East Lee Highway. The purpose of the Public Hearing will be for the BZA to take public input and consider issuing two variances for a proposed retail store between West Main Street and West Lee Highway on lots 53D2-A-48C and 53D2-A-50. The petitioner is requesting a variance of one parking spot of the required 26 as elaborated in Section 4.17 of the Town's Zoning Ordinance, and a seven-foot variance on the required ten-foot setback on West Main Street as elaborated in Section 3.3-4. Copies of the application and other materials are available by request at the Town Hall. Persons interested or affected by this proposal are invited to appear and speak thereon.

John E.B. Clark, Jr.
Town Manager

Chairman Lynn Pease opened the Public Hearing at 6:00 p.m.

Bill Rush — 1548 High Meadows Lane, Chilhowie, owner of 201 West Main Street. First let me say this so everybody understands, I am for this. Okay, I am pro capitalism in a big way. I have some concerns about this. You have an elevation issue between my property and your property and I would like to know how you plan on doing that, and you do not have to answer any of these, it is just some things that I am concerned with, somewhere in the engineering side. I am concerned about the storm water. The building that we have next to it you have an elevation issue and I would like to see what they do with that.

Tim Dunaway — Tell me what you mean by that. If it is not storm water are you talking about…

Bill Rush — No you have an elevation issue, where Robin has her sign Hodge Podge on Main, you have about a two-foot drop from the level of my lot to the beginning of you lot.

Tim Dunaway — Okay.

Bill Rush — Okay, and all of that has something to do with storm water. I have a concern about the site distance of the building being straight up next to the sidewalk

that needs to be torn out anyway. As you are coming down West Main Street from the west to the east, I prefer to see this moved back off of that…where that is. If you did that the sidewalk is no good anyway, okay. So, you can pick up some on street parking right there and it would help us both. It would help yours because you can get in some closer to your door. By shifting this building to the north, you would cut down on the size of your dock over there, but also you can get rid of that radius that is a problem for your trucks. You have a problem with your water line, that existing water line, I may be wrong, but it is either a ten- or twelve-inch water line. It is a monster.

Tim Dunaway It is a main, my guy said he wasn't sure of the size.

Bill Rush Because that is the one that comes off Mrs. Beattie's, isn't it? Yes, we replaced that when I was here.

John Clark It serves that subdivision.

Bill Rush Yes, but the good news is there is a set of plans here for it.

Tim Dunaway It will have to move regardless.

Bill Rush Yes, but the biggest single problem that I have in general is the storm water. Like I said, I know a portion of this is in the 100-year floodplain but twice when I was Town Manager, I have seen water all the way up to my building. It was not in the building, the only time it was in the building was 1977. You have three floods, 1926, 1952 and 1977 that was above 100-year floods. So, you know if you can figure out how to catch the water on West Main, and I am also here representing the D.C. Walker Estate, Daniel asked if I would speak on that to and he was the one you all was not sure was an adjacent property owner, but he will absolutely be effected by…

Tim Dunaway Is his lay west of there?

Bill Rush Yes, west of there.

Tim Dunaway That is where the water is wanting to go.

Bill Rush That is right. So, he is concerned about when you build this on a pedestal you will have to build on the tail of it. Where does that water go? Where it used to go here it will increase that.

Tim Dunaway We are increasing the runoff for sure and it is all green grass right now and gravel. We are also hoping to meet the Smyth County Storm Water Ordinance. Clegg holds my toes to the fire everywhere I go in this County.

Bill Rush Predevelopment.

Tim Dunaway Yes, that's exactly right. So, we will have some sort of collection system. The roof water will be piped, and all the parking lot will be draining to this underground retention system and that retention system will be designed to handle whatever the requirements are. I am sure there is a lot more to it than I know about and Engineers will have to do it but there is a formula they use for the capacity that must be stored. Also, the release rate and all of that is done and approved. You are being protected by what the Ordinance is in place, Clegg will make us meet that. The roof water is going to get caught, all of the parking lot water is going to get caught and that little area between the building and the property line that would be run off, that is a good point, we might have to get a way to catch it and pipe it to the detention if it is in excess of what is allowed to go off site. It is already doing that now but whatever rate and quantity that is going off that side now we must reduce. That is my general idea.

Bill Rush A suggestion, somewhere here there is a set of, the Army Corp did a pretty extensive study here and I think it would be cheaper to fix the ditch going down West Main than it would be doing your underground retention, but that is up to you.

Tim Dunaway There used to be a ditch on West Main?

Bill Rush Yes, sure is and it needs to be reestablished at some juncture.

Tim Dunaway We probably won't get out of doing a retention, I think the numbers here and we are covering a large surface.

Bill Rush You will have some retention but not as near as much if you can move it.

Tim Dunaway — Well, again they have not chased that to the end of it yet. He has identified the swell up front that is most likely to a point where you would discharge from the detention. That is the main area of this whole area that seems to get in that ditch and go west. Where it crosses that other gravel lot there is obstruction, he said so we may have to replace that pipe to make sure it keeps on going. But I will ask him to let me know what he thinks is going to happen on the West Main Street side. I just drove it a few minutes ago and it has been about a year since I was up here, but I remember the lot but I had not drove it to get a feel for how it lays and it is flat. Flatter than a flitter right there between us and the Farm Bureau. Is the Farm Bureau here tonight?

Rebecca Wilkinson-Smith — He is right there. Bill how much runoff do you get that actually goes off Main Street to the other side?

Bill Rush — When you say Main Street do you talking about Route 11?

Rebecca Wilkinson-Smith — No, I am talking about Main Street. I am talking about between you and the Farm Bureau, because I have been down there before, and the water been about yay deep.

Bill Rush — What you generally see is what doesn't get caught off Route 11 comes down Depot Street and ponds right there. It is level all the way down through there and the best way to catch that would be an underground storm water system. If he is a year out VDOT would like to fix that. They did twenty years ago; they fixed the one right out here and piped that down to there. That is the exact same thing. They want to fix that they just need a valid reason to do it. I am willing to help; I am willing to help advocate.

Tim Dunaway — Is Main Street a VDOT route.

Bill Rush — Yes.

Tim Dunaway — Well, that helps. It is their water going to their water. We can ask them; they have participated before from time to time. Usually it is the other way around they want us to fix their water problems and I imagine realistically that is what will happen here. They will say

well if you want this driveway permit then you will put this pipe in from here to here for us. Sometimes they help.

Bill Rush — I can't help below the lot you are talking about but I can certainly advocate for the one I am on and I can advocate for Dave, I can advocate for the one right below Dave and I can advocate for another one down there near the bottom that I own. So, you will not fight this alone. It is a long-standing problem that needs to be fixed and I have no magic here, but I know VDOT very very well. I am willing to help you.

Tim Dunaway — I will get my engineer to contact the storm water folks. Who do we talk to about the access? Is that Racheal Brown who we talk to about driveways?

Bill Rush — Yes.

Tim Dunaway — Well she will hook him up with who we need to talk to about storm water and we will have a sit down. I mean I go try that every time I need to. If there is a problem that is highway related and I am trying to get across and around they will sit and listen to me. If it is a long-standing problem that they are aware of already then that helps for sure. Unfortunately, there is nothing in the very lower part except a gravel lot. If there was someone there getting flooded regularly then they would have gotten sued already and had to go do it. It is a real concern when we looked at this. We knew it was in a lower spot. We must meet the requirements on keeping that runoff reduced. So that part of it I think we are going to be fine on. What we do here, or what happens now is that it soaks into the ground and it is getting into that ditch somehow. Actually, I think there is a ditch along the side there to, or something. There is cattails and standing water is standing there so I think that is the obstruction you were talking about. We will have to get all of that corrected before we can ever get a permit. I will bring that up to my engineer at this point I am not much more knowledgeable than you are probably way more as far as what happens there actually.

Bill Rush — He is.

Tim Dunaway — Does it get in your building or just the parking lot.

Dave Farris	Its been in the building.
Time Dunaway	Has it?
Dave Farris	The lower end where he is talking about has probably had four foot of water right on our lot across the street where you are looking at. Its been all the way up in Town up to 107 that comes through Town. They have been a lot of improvements since then. Did they ever determine who's drain that is we looked at the other day?
John Clark	No.
Bill Rush	Which one is it?
John Clark	VDOT had to put that drain in on the south side of West Main.
Dave Farris	It is a big drain.
Randy Sturgill	There is an inlet there.
Bill Rush	Where is it? Which one?
Randy Sturgill	Straight over from where he fills his propane up.
Bill Rush	On his lot though?
Randy Sturgill	Yes, roadside, there is an inlet there.
John Clark	The Mayor asked a question where it comes down south side of West Main past Farm Bureau. We met with Dave and I have called VDOT twice this week and Jeff Jones he retuned my calls and I am sure they had the information, but they are pretty good for not knowing things, but it is not our responsibility. Anyway, Dave said it comes to a point there in front of the parking lot and then takes a ninety and goes to the river. Is that correct?
Mayor Heninger	I remember VDOT down there putting a drainpipe in a few years back.

John Clark	About two years ago they put a drop inlet there. I remember that. Is that what you are talking about or putting in the line itself.
Mayor Heninger	I think that they put a line in and everything.
John Clark	I do not remember that.
Tim Dunaway	Does it flood right over that drain or is that drain further west?
Dave Farris	It catches a lot of water.
John Clark	But the water you are talking about Dave was during a flood event, is that correct?
Bill Rush	That was a 250-year flood. That was in 1977.
Dave Farris	What I am talking about water comes in down there now. It's a pipe, well he seen the thing, and he needs to look at it.
Tim Dunaway	We can chase that down but if it a blocked structure then it will come into the picture.
John Clark	There were two floods in 1977, April and November. I remember it.
Tim Dunaway	I can chase it and that is all I can tell you at this point. My engineer will get the VDOT drainage folks involved and see how they respond. Bottom line to get our project on board and what we would have to do to get that done. Taking care of all our water is a given, that will happen. But if there is something that we can do while we are in there tearing this up with enough help from VDOT that we can do other things, we are not averse to that. We know going into a town sometimes that is the best way to get something put in. So, that's okay.
Rebecca Wilkinson-Smith	Bill, I have a question for you. You said you would like to see the store moved back from Main Street.
Bill Rush	Yes Ma'am.

Rebecca Wilkinson-Smith Well that is one of the things we are addressing. What is your reasoning for that? That is one of the things he is asking is for that variance.

Bill Rush The reason why, correct me if I am wrong Sir, the reason why it appears he is asking for that is because he has a turning radius for the truck, if you…

Rebecca Wilkinson-Smith On the other side.

Bill Rush On the other side, okay, and to be able to get your parking, he is only asking for one, but he has some parking over there to trying to hit the board. To be able to get that parking he has had to bump out a barrier that his truck as to push around. If you all can push this thing more to the north take that barrier out and give him some on street parking over here. Give him a bigger variance than one, give him the variance that it takes to have what he has here to push that building to the north you would still have the same number of parking spots and the building would not be a sight distance problem for us and then by having that off of there eventually you going to have to have a storm water conveying system down through there and that's where it would be, is underneath that.

Rebecca Wilkinson-Smith That is a better place for that.

Bill Rush If you push that up…

Rebecca Wilkinson-Smith Back towards Highway 11.

Bill Rush Yes Ma'am.

John Clark Mr. Chairman, if I may? Randy and Felicia, didn't we address that?

Felicia Eller Yes Sir.

Randy Sturgill We asked that very question in one of our conference calls and I do not remember the exact answer that was given to us but whatever it was it wouldn't work out. I asked them to just go the seven feet, what is moving it seven feet? But it wouldn't work out for the loading dock area and the north side of the building.

Tim Dunaway — If you look at where the five spaces are and the drive off that it's a ninety-degree parking and you got to have a wide enough area to drive a ninety-degree three point turn right there. We are right on it right now and if I move it a foot it starts not to work, and I am fighting the other variance again. The other thing is on the truck turn that big corner you cannot get a parking space in that anyway; we always show that striped zone so nobody will park there. That is the direction, they are coming off Lee Highway and backing around the loading dock. So, moving the building that way I do not know it doesn't help the truck turn.

Bill Rush — Well it would because those right there are nineteen feet deep. Okay, if you have one, two, three, four, five there and you are only pushing seven feet to the north yes you lose those five, but you pick up…

Tim Dunaway — Oh, you said difference.

Bill Rush — Yeah, you pick up seven of them down here.

Tim Dunaway — Again then I would be fighting on site parking and I know you said pick up some on the street.

Bill Rush — Yes, and then that would be a land application and you would need a variance not for one but for seven. Push that thing back you wouldn't need that variance because then you would have on street parking that would help everybody. You know as opposed to creating site distance problems.

Rebecca Wilkinson-Smith — I think aesthetically, yes further down the street the building is next to the sidewalk. But your building is not next to the sidewalk. I think that it is going to feel tight going to your parking and encroaching on that and I think that for the overall appearance and the fact that we are trying to promote Main Street that it would be better if it is not a back of a building on our Main Street, or the side of a building if we did have some space there. I would have no problem and there are twelve spaces where they are now, and I would not have a problem with the reducing of the parking spaces. Cause they can park at the Farm Bureau or they can park at your store.

Bill Rush	Yes, and they are going to. If there is an overflow that is going to happen. But if you push that building back and you give them some on street parking here then if I have an overflow my people will come down go on the street as opposed to going in theirs.
Tim Dunaway	My question is is there physical room with on street parking with two lanes on Main Street.
Bill Rush	Absolutely.
Tim Dunaway	I do not think so.
Rebecca Wilkinson-Smith	Park parallel.
Tim Dunaway	The sidewalk is to stay in one form or another.
Bill Rush	That sidewalk is older than you and me combined.
Tim Dunaway	I know it is old, but it is still a public sidewalk and we cannot do away with it for parking. I mean if that must stay then we would need ten more feet on the street somewhere to get that pararell parking and I do not know if it is there.
John Clark	I think the Ordinance says when you put it in there you got to have a sidewalk and curb and guttering for the entrance.
Tim Dunaway	I was thinking of the width of it, the street that is there now is barely a two lane. I pulled on the sidewalk because I felt I was in the street still.
Bill Rush	Most people do.
Time Dunaway	I imagine the property line is the back side of the sidewalk. I do not think there is anything between the property and the sidewalk, that is how tight it looks on the survey anyway. So, I get what you are saying if there was a wider street there to do on street parking and the Town would allow us to count those toward our required amounts, I presume they would.

Bill Rush — That is what I mentioned before. If you have twenty feet here if you will allow him a variance for parking, center that building a little bit more and let him get rid of this concrete thing and let him have some on-site parking and take care of this sight distance thing and I am looking forward to a neighbor as long as you don't put water on us.

Tim Dunaway — What I will do I will get my surveyor to confirm where the street is where the right of ways are and if there is room. First of all that is the first thing we got to figure out, I mean you can't just cram it on there and do away with the sidewalk and parking right to the property line with no way to walk on site. Plus, we got to have whatever the Town Ordinance is for a one single lane, if it is eleven feet a piece you got to have twenty-two feet in there somehow plus the sidewalk. So, let me…

Bill Rush — It would be parallel.

Tim Dunaway — Parallel is the only thing you can do there. My surveyor will verify the right of way width there. There is not a sidewalk on the other side I realize, but I am sure the Ordinance requires working in a public street, to do a parallel space you have to have at least ten foot width and I imagine they would call for something else to, and I imagine there is not enough space for that. I don't know if there are physical room for all of that keeping the two lanes, but I can find out. If that was to work and the Town did count those five, I can probably get five spaces there fairly easy. That is 140-foot building and we use about 22 for parallel, that would be plenty. We could get those back as far as meeting requirements goes Dollar General, I do not think is going to care I will have to ask them. They have been Towns where street parking is part of their requirement and they are usually okay with that. If that was the case then your argument is right, sliding forward five feet, I wouldn't want to give up much more than that because back towards the loading end that front property line is angling pretty hard and I still have to get the truck in back there and of course the dumpster is back there to. It starts to get a little tight.

Bill Rush — But you are getting rid of this nineteen-foot-deep curb back there.

Tim Dunaway	I am losing you there, I mean when you push everything that way you are not going to lose that.
Bill Rush	If you push this building into that nineteen feet right here.
Tim Dunaway	And you got the building right here.
Rebecca Wilkinson-Smith	And you're not parking there, you can get rid of it and the truck has more space.
Tim Dunaway	Well, I hear you saying that, but it will trim off the end of it maybe.
Bill Rush	Its easy for us to sit here.
Tim Dunaway	It will trim off the end of it but pushing seven feet….
Rebecca Wilkinson-Smith	Well you wouldn't even need it if you are not going to have parking there.
Tim Dunaway	It reduces that whole turn, and the truck will still turn. If I can get the parallel to work on the side street your idea is right. You slide that far the only thing I am worried about at this end is making sure I can get the truck into the dock and I have room for a dumpster back there somewhere since that is the only place on the property. But other than that, yes pushing that way doesn't hurt when you can make up the parking somewhere else.
Lynn Pease	David, have you got a comment?
David Gary	As interesting as all this discussion is, I think we are here to talk about the variances that he is applying for, not to redesign the whole site plan that he has already got designed. It is interesting and while I am ignorant about all of that stuff anyway, I do not think that is why we are here. We can talk and talk about this another time, but we need to get to what we are here for.
Rebecca Wilkinson-Smith	If they redo the design then what we are here for is a moot point anyway.

David Gary — We have to decide tonight what we are going to do. We cannot say well is he going to redesign it? He doesn't know.

Cathy Smith — I think the suggestions and having Bill making some positive suggestions, I mean I have been in the Town twenty years, I am a transplant, and that Dollar General needs to be relocated. I agree with you. I question the place. I will be upfront with you; I question the placement of it because I knew it was a flood zone and I have seen water on that lower western part up over Highway 11. I was looking just a moment ago trying to find the pictures. I have seen it up over, I have seen it on that building down there. I know the problems that are there. I also have a concern with it sitting right there next to the sidewalk with sight distance and also what it does to Farm Bureau across the street, because it is a narrow street. Right now, there are people that do park on the street, because we do have sidewalks on part of it, and they are people that park there, but it is also 25 miles an hour. People will park there for a few minutes going into the store and come out. Having that building right up next to that street as far as sight knowing people when they pull out, they cannot have a full sight down the street either way. In fact, I have almost been hit at Depot Street, people not paying any attention, but there is more sight at Depot Street than there would be here, pulling out from Dollar General or pulling out from wherever from that area. That I think that far up is going to create problems especially for our elderly drivers or for anybody for that matter. My concern is the flood, the times I have seen it flood there, you know.

Tim Dunaway — I understand the flooding, but we are not going to change the flood, how many times it floods it's going to flood every time and our building being there won't change that a bit.

Cathy Smith — I just do not want it to make it worse for these gentlemen down there because right now I know what it is. I have seen it.

Tim Dunaway — That is what I am saying how can the addition of the building make the flooding worse if we are doing our storm water due diligence with the County?

Cathy Smith — I understand that, I understand that you are going to do that, but is that going to elevate the problem for the whole area? Is that going

to create…I do not mean to be tough about this, but these are just my questions, is it going to create more of a problem for this gentleman's buildings down through there? Is it going to create more of a problem right there at Farm Bureau or anywhere else? With your building being built up you may have the detainment system put in that is going to get the majority of it, what if we do have an unreal amount of rain? The other night we had three inches of rain.

Rebecca Wilkinson-Smith — Three and a half.

Cathy Smith — Three and a half, yes.

Tim Dunaway — All I know is I am not allowed to make it worse. What we do cannot make it worse, it can not be a storm water problem. Now, sight distance is a whole other thing. This variance I am asking for puts that building closer to the road as you pointed out. When they leave through Main Street, they got three feet between the building and the property line, of course there is a sidewalk to, I can do some sight line drawings on that, that's an issue that is physical? Yes, it is, we have to decide about that. Storm water though I am restricted as anyone here in this room that must go get a permit. I cannot make the storm water worse than it is.

Bill Rush — It is a calculation for predevelopment and post development. I am not too worried about that as long as we can see the calculations. The site distance gives me pause, but then the guy that has been here in Chilhowie since 1989 cause I guess I am a transplant to, but I know there is a problem there and I know that at some juncture it has got to be fixed. Here is a development, I don't know, somewhere is the $700,000 range, that you can with some negotiations and some give and take and working with VDOT, I think you can leverage this to fix or at least mitigate some of the problem that you have for my property, for Dave's property and for the Walker property there. I mean the closer you get to the swamp the less you can fix it.

Cathy Smith — Yeah.

Bill Rush — But I guess I am for this, I have said that before, I will say I am against the seven-foot variance, but I do not know if you must make that decision tonight either. This is a Public Hearing which means you just must take input from the public which we have done. He may go back and find out that it cannot happen. I will say if it cannot happen, if he cannot move it back, I will say that I am more for it than against it. I want that on the record somewhere. I mean I am not against this and I do not think that Dave is against this. I do not think the Town of Chilhowie should be against this.

Tim Dunaway — I have been in places before where I know they are against it.

Bill Rush — Absolutely.

Cathy Smith — We need a new Dollar General.

Bill Rush — You all on the street will tell you I am not bashful, if I was against it you would know it.

Tim Dunaway — Back to Mr. Gary's point we must also come to a discussion of what is on the table now and I do not know how you will proceed with that. I am willing to investigate the options still. I would love to know if I have a clear path beyond that though incase it does not work.

Dave Farris — I am like Bill and everyone else here, I do not oppose it at all. The problem that we have is the water, it has got to get out of there or they won't even want to be there. I think if you can get VDOT down there with John and Randy and say this is what we need to do that can happen. There is a tile down there on the corner and it is grown up and full of stuff. Whoever it belongs to, the Highway Department it needs to be taken care of. The one in front of the store well, had to be put in there thirty years ago, forty and the drain leaves there takes every bit of the water off of Rouses all the way down the street and goes in, it just needs to be maintained. So that might help you some on drainage. That's all I have.

John Clark — If I may, I know the Attorney will address all of these issues, but we have done hundreds of thousands of dollars' worth of work in projects over four or five years. Drainage, Main Street and Number

11, if we can wave a wand and get VDOT to work on some of these things, great, but VDOT moves at VDOT speed. Maybe this will be a good time for them to look at it and I will be happy to try. I cannot sit here and say that VDOT will correct all of those issues down there because some of them will be high dollar issues. I will do what I can when we get to that point.

Mayor Heninger — The problem will never be fixed on the drainage unless this goes through because you won't get VDOT down there to do it. This is the only way to have it taken care of.

Chairman Lynn Pease closed the Public Hearing at 6:34 p.m.

Paul Cassell Town Attorney, Report on Criteria Needed to be Met for Variance to be Granted:
Mr. Cassell reported the floodplain is an issue but not a matter before the Board of Zoning Appeals, the other issues are governed by other rules and regulations that they will be required to abide by. The issues currently before the Board is set back and parking spaces. JMB Investment Company is requesting a seven- foot variance from the set back because they can only meet the set back by three feet and the Ordinance requires ten feet. The other variance requested is for one less parking space than required by the Ordinance. Mr. Cassel referred the Board of Zoning Appeals to review Section 6.2-3 of the Zoning Ordinance to determine if the variances requested could be granted. Mr. Cassell also reviewed the Board of Zoning Appeals authority and the steps required in order to reach a decision.

Board of Zoning Appeals Questions and Action: The Board of Zoning Appeals reviewed each item under Section 6.2-3 of the Zoning Ordinance. A discussion ensued.

Motion of Rebecca Wilkinson-Smith, second by Cathy Smith the Board of Zoning Appeals approves the variance request of JMB Investment Company for one less parking space than required by the Zoning Ordinance. The motion was approved with following recorded vote:

David Gary	Aye	Lynn Pease	Aye
Cathy Smith	Aye	Rebecca Wilkinson-Smith	Aye
Kathy Wright	Absent		

Motion of Rebecca Wilkinson-Smith, second by Cathy Smith the Board of Zoning Appeals approves the variance request upon the condition of JMB Investment Company investigate the possibility of moving the building back and if possible then pursue for seven foot variance for the required ten feet setback required by the Zoning Ordinance. The motion was approved with following recorded vote:

David Gary	Aye	Lynn Pease	Aye
Cathy Smith	Aye	Rebecca Wilkinson-Smith	Aye
Kathy Wright	Absent		

Election of Chairman and Vice Chairman:

Motion by David Gary, second by Cathy Smith the Board of Zoning Appeals elects Lynn Pease to serve as Chairman to the Board of Zoning Appeals. The motion was approved with following recorded vote:

David Gary	Aye	Lynn Pease	Aye
Cathy Smith	Aye	Rebecca Wilkinson-Smith	Aye
Kathy Wright	Absent		

Motion by Cathy Smith, second by David Gary the Board of Zoning Appeals elects Rebecca Wilkinson-Smith to serve as Vice-Chairman to the Board of Zoning Appeals. The motion was approved with following recorded vote:

David Gary	Aye	Lynn Pease	Aye
Cathy Smith	Aye	Rebecca Wilkinson-Smith	Aye
Kathy Wright	Absent		

Having no further business, motion by Cathy Smith, second by Rebecca Wilkinson-Smith unanimously passed, the Board of Zoning Appeals adjourned the meeting at 7:24 p.m.

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Felicia Eller, CMC, Secretary