

Town of Purcellville

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Appeal # 13-02

Appeal of Board of Architectural Review Decision Application

488-37-7354 & 488-37-5457
Date 12-26-2013 PIN & 488-37-5267 Zoning District C-4
Street Address CDA 13-11 Vineyard Square Address is TBD by Post Master, Replacing 130,138,140-142,144-148 21st Street North
Name of the Appellant(s) Chapman Group, L.C. & Martinsburg Plaza, L.C. & 151 O Street East & 130 O Street East Buildings
20,19,17,10-13
Agent/Owner's Name Mark Nelis, Member/Manager Telephone No. (540) 338-5843
Fax No. (540) 338-3702 E-mail mnelis@nelislaw.com
Mailing Address 196 N. 21st Street, Purcellville, VA 20132

Nature of the Appeal:

See Attached: STATEMENT OF JUSTIFICATION
APPEAL OF DECISION OF BOARD OF ARCHITECTURAL REVIEW

Date of determination or notice of violation, order, requirement, or decision which is the subject of this appeal:

12-18-2013

Agent/Owner:

I have read this completed application, understand its intent and freely consent to its filing. The information provided is accurate to the best of my knowledge. I understand that the Town may deny, approve, or conditionally approve that for which I am applying. Furthermore, I grant permission to the Town or authorized government agents to enter the property and make such investigations and tests as they deem necessary.

[Signature] 12/26/13
Agent/Owner's Signature Date

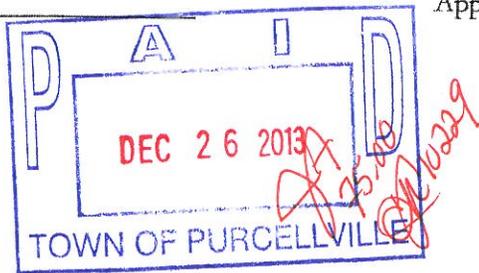
For Town Use Only

Required Submission Date: _____ Application Received: 12/26/13 Hearing Date: _____
Public Hearing Advertisement Date: _____

Fees Paid: \$ 75⁰⁰

Approved:

Denied:



APPEAL OF DECISION OF BOARD OF ARCHITECTURAL REVIEW

This statement is written in support of an appeal filed with the Town Council of Purcellville pursuant to Article 14A Section 7 of the Purcellville Zoning Ordinance. In particular Chapman Group L.C. and Martinsburg Plaza L.C. (collectively the “Appellant”), owners of several properties located at the intersection of 21st Street and “O” Streets (488-37-7354, 488-37-5457 and 488-37-5267 “Subject Property”) appeal the decision of the Board of Architectural Review (“BAR”) related to new construction application CDA13-11, Vineyard Square. The decision of the Board while approving construction on the Subject Property includes conditions that are contrary to the Purcellville Zoning Ordinance, provisions that are void for vagueness and conditions that are impossible to satisfy.

The BAR failed to consider applicable provisions of the Zoning Ordinance.

The Purcellville Zoning Ordinance provides that the underlying district regulations control the height of the structures.

Article 14A Section 4.1:

“Area and bulk regulations minimum yard and setback requirements, and height regulations shall be as provided by the underlying district, except that the following provisions and limitations shall apply to any development or portion thereof within the district which shall be visible from a designated HC street.”

The proposed Vineyard Square project complies with the requirements of the underlying C-4 district. Section 9.8.3 of the Zoning Ordinance was adopted after lengthy consideration by the Planning Commission and the Town Council and specifically addresses the development of the Subject Property. In particular one half of the street frontage along 21st Street is restricted to a height of 35 feet, as opposed to the C-4 district

height of 60 feet to create a smooth transition from the smaller buildings on the north end of 21st Street to the taller building located to the south, including the renovated grain mills.

The proposed construction meets the ordinance requirements like a hand in a glove. The taller portion of the building is located to the north being located next to a 3 story building (Adams Mill office and retail building, 190-196 North 21st Street). The manager of Adams Mill, LC testified before the BAR on the public record that Adams Mill LC has no objection to the proposed design. Likewise the manager of Rainbud, LLC the owner of 115 East Main Street (Valley Energy), also abutting the Subject Property, testified on the public record that they support the construction of Vineyard Square. Mary Ellen Stover, the owner of 120 North 21st Street has publically objected to the design of the project with particular emphasis on the height of Vineyard Square. It should be noted that the facade adjoining Mrs. Stover's property is proposed to 14 feet tall.

The BAR has consistently dictated architectural style. However the HC Overlay district provides that no architectural style shall be imposed.

Article 14A Section 8.2:

“The board of architectural review and the town council on appeal shall not adopt or impose any specific architectural style in the administration of this article.”

By rejecting the proposed architectural styles of the Vineyard Square project, in particular the classic forms (identified as the Jeffersonian elements) and the agrarian styles on the east elevation of the building, the BAR has clearly disregarded this important provision of the HC overlay district. As noted in the Town staff report to the BAR many of the design comments from the Board reflect personal preferences of BAR members. The application of the express terms of the Zoning Ordinance and the Design

Standard Guidelines (Guidelines) prohibit the BAR from considering architectural style. The owners and architects of Vineyard Square project have carefully considered the architectural styles prevalent in Purcellville and have elected to present three distinct styles to provide context for this construction. The BAR has dictated architectural style in contravention of the Zoning Ordinance.

The Proposed Construction Complies with the Zoning District Regulations

The construction of the Vineyard Square complies with the C-4 zoning regulations of the Town of Purcellville. Section 9.8.3 of the C-4 regulations restricts the height of buildings on the subject parcel to 35 feet for one-half of the 21st Street frontage. For all other parcels in the C-4 district buildings may be up to 60 feet. In consideration of this restriction, the balance of the facade along 21st Street is permitted to be 65 feet in height. Over half of the 21st Street elevation included in Vineyard Square, in comprised of buildings that are significantly lower than the 35 foot height requirement for the Subject Property. The proposed buildings are in conformance with the C-4 district regulations including the bulk and height regulations.

The Proposed Construction is permitted under the adopted Design Guidelines.

As set forth in Section H, Page 31 of the Design Guidelines, the Board of Architectural Review is charged to retain the historic fabric of the Town while balancing “*the needs of the property owners to make contemporary use of their property*”.

The Appellant acquired the properties over 5 years ago for exactly the stated reason – to make contemporary use of the Property. From the outset it has been the Appellant’s stated objective in numerous public hearings and workshops to replace the existing buildings with a compact downtown center. In accordance with Guideline 2F (page 32 of the Design Guidelines) the Appellant believes the removal of the buildings is consistent with the goals of the Town Comprehensive Plan, Downtown Master Plan and applicable sections of the Town Zoning Ordinance.

Likewise, the Appellant has proposed a project, Vineyard Square, that is in conformance with the Town Comprehensive Plan, Downtown Master Plan and applicable sections of the Town Zoning Ordinance, revisions which were adopted in 2008 addressing the size and scale of the development of the Property (See Sections 9.8.3 and 9.8.4 of the C-4 district regulations).

The proposed re-development of the Property will create housing and retail opportunities in the central area of the downtown district, an area that has limited housing opportunities and few high quality retail spaces. The addition of 40 residences and 30,000 square feet of retail space, while providing for the parking needs of the residents, tenants and shoppers will provide a significant boost to the downtown economy, having an effect that may well exceed the positive impact the construction of the Adams Mill building and Magnolias has had on the vitality of downtown.

The impetus to this project began with the downtown charette conducted by Hill Studio as a consultant to the Town of Purcellville. The charette and the result of the charette – the Downtown Master Plan – recognized the need to construct new buildings in the downtown district to increase the diversity of land uses and economic opportunities. The C-4 Zoning Ordinance reflects the Downtown Master Plan and provides the path for projects such as Vineyard Square. The Town Council upon advice and recommendation of the Planning Commission has moved a step further adopting an ordinance with a 65 foot building height.

Motion by BAR

In response to the motion adopted by the BAR adopted on December 18, 2013, the next section of this appeal addresses the terms of the motion. It should be noted that the written motion adopted by the BAR was not provided to the Appellant, the Planning Staff or the Town Attorney prior to the meeting of the BAR. In fact the Chairman encouraged the Appellant's architect to truncate his presentation to the Board despite the fact that two new members of the BAR were taking their seats for the very first time.

Height

The proposed height is appropriate for the location- the corner of 21st and O” street. This is the prominent corner of the planned development. Moreover the height of this building is controlled by applicable provisions of the Zoning Ordinance, as discussed earlier.

Finally the motion is erroneous in so much as the motion refers to the number of stories and not the height of the building as prescribed in the zoning district regulations. Given the design of the building it is impossible to restrict the front corner (21st and “O”) to 2-3 stories while constructing the rear elevation at 4 stories measured from 21st Street as provided for in the motion to approve Vineyard Square.

As to the east elevation, again the motion references a restriction on the number of stories, not the feet in height as set forth in the Zoning Ordinance. Arguably the proposed building complies with the terms of the motion - “4 stories as measured from the existing grade on 21st Street”. The underlying district regulations (C-4) control the height of structures and the proposed east elevation complies with the terms of the C-4 zoning district.

Design

Classical columns

The Design Guidelines Section 11 page 19 state in part ***“In keeping with the traditional design styles prevalent in the Town, traditional Tuscan or Doric round columns are encouraged”***. During their deliberation the BAR reminded the Appellant that their role was to uphold the Design Guidelines. The proposed columns are clearly permitted by the Design Guidelines. Moreover the Town has many examples of classic columns including the porches and entry way of historical houses and buildings approved pursuant to the Design Guidelines including Patrick Henry College and Valley Medical.

Turned Balustrades

As discussed earlier the BAR has no authority under the zoning ordinance or the Guidelines to dictate architectural style. The architect has chosen a classical railing system to match the traditional design of the building. The Design Guidelines do not prohibit such a railing and this railing exists on a historic house located at 231 East Main Street.

Pergola Detail and Fright Depot details

The same arguments from above apply. The BAR has no authority to dictate architectural style. The architect has made a number of changes to the design at the suggestion of the BAR but does not want to compromise the design any further.

Rear elevation (East elevation)

The BAR has rejected the architectural style of the east elevation. The developers and architect of the project believe it is important to preserve the architectural heritage of the Town and have designed an agrarian style, which references the rear of the Magnolias restaurant building. This elevation is compatible with the exposed roof rafters and brackets of the Magnolias building, clearly within sight of the Subject Property.

Conclusion

The Appellant has designed a mixed-use pedestrian oriented center consistent with the Purcellville Zoning Ordinance and the Design Guidelines. The Appellant has worked for three months with the Board of Architectural Review towards the approval of this project and it is clear that BAR does not recognize the height and mass of structures permitted in the C-4 zoning district which was approved by the Town Council upon recommendation of the Planning Commission. At this juncture, the Appellant requests approval of Vineyard Square as presented and filed with the Town.