

Board of Zoning Appeals Meeting

At a regular meeting of the Board of Zoning Appeals of Warren County held in the Warren County Government Center on July 2nd, 2026, at 7:00 PM.

Present: Gary Kushner, Chairman; M.W. Robinson, Vice-Chairman; Ron Weckenman, Sean Newman, Members; Kelly Wahl, Planning Director; Allison Mutter, Clerk to the Board of Zoning Appeals.

The agenda packet provided to the Board of Zoning appeals at the, meeting, a copy of which is attached hereto, is hereby made a part of these minutes as if set forth fully herein, including without limitation the staff report and supporting materials included within the agenda packet in reference to each appeal or application.

Call to Order:

At 7:00 PM, Mr. Kushner called the meeting to order and declared a quorum.

Motion to Amend Agenda:

Mr. Kushner acknowledged that Staff had provided a draft agenda and then proposed the following agenda, based on previously completing the Call to Order:

II. The Pledge of Allegiance

III. Election of Officers

A. Chairman

B. Vice-Chairman

C. Secretary

IV. Public Hearing

A. BZA2026-07-01

V. Adoption of the Regular Meeting Minutes of November 6, 2025

VI. Open Discussion

VII. Adjournment

Mr. Kushner asked if there were objections to the proposed agenda and, receiving none, declared the agenda adopted. He then invited the audience to join the Board in the Pledge of Allegiance.

Election of Officers:

Mr. Kushner requested nominations for the position of Chairman.

Mr. Weckenman nominated Mr. Kushner. The nomination was seconded by Mr. Robinson.

Mr. Kushner asked if there were any other nominations? Receiving none, Mr. Kushner closed the nominations. He then stated that, according to *Robert's Rules of Order*, when there is only one nominee for a position, they are considered to be elected to the position and Mr. Kushner is elected Chairman.

Mr. Kushner requested nominations for the position of Vice-Chairman.

Board of Zoning Appeals Meeting

Mr. Weckenman nominated Mr. Robinson. The nomination was seconded by Mr. Newman.

Mr. Kushner asked if there were any other nominations? Receiving none, Mr. Kushner closed the nominations. He then stated that, according to *Robert's Rules of Order*, when there is only one nominee for a position, they are considered to be elected to the position and Mr. Robinson is elected Vice-Chairman.

Mr. Kushner requested nominations for the position of Secretary.

Mr. Robinson nominated Ms. Mutter. The nomination was seconded by Mr. Newman.

Mr. Kushner asked if there were any other nominations? Receiving none, Mr. Kushner closed the nominations. He then stated that, according to *Robert's Rules of Order*, when there is only one nominee for a position, they are considered to be elected to the position and Ms. Mutter is elected Secretary.

Public Hearing:

BZA2025-07-01 - 0 John Marshall Highway: A request for variances from Warren County Code §180-29.1F(2)(a)[1] to allow for a principle structure setback of fifty feet (50') and a parking setback of thirty-five feet (35') for a principle structure and parking lot on lots 19A and 19C and to allow for a structure setback of fifteen feet (15') on lot 19B in lieu of the required minimum structure setback of one hundred feet (100') and the minimum parking setback of fifty feet (50') in the Highway Corridor Overlay (HC) District. A fifty foot (50') variance to the required structure setback and a fifteen foot (15') variance to the required parking setback are sought for lots 19A and 19C and an eighty five foot (85') variance the required structure setback is sought for lot 19B. Additionally, a request for a variance from Warren County Code §180-27H(1) to allow for a principal structure setback of fifteen feet (15') in lieu of the required minimum front setback of fifty feet (50') for a principle structure in the Commercial (C) district. A thirty five foot (35') variance to the required principal structure setback is sought. The property is located at (0) John Marshall Highway and is identified on tax map 31G, section 2, block 5, as lots 19A, 19B, and 19C. The property is zoned Commercial (C) for lots 19A and 19C and is split-zoned Commercial (C) and Agricultural (A) on lot 19B. The property is located within the Highway Corridor Overlay (HC) District and is located in the Happy Creek Magisterial District. The property is owned by Valleygate, LLC.

Mr. Kushner requested the staff report.

Mrs. Wahl stated that the Board was provided with an application and supporting documentation requesting a variance from Warren County Code §180-29.1(2)(a)[1] to allow for a principal structure setback of fifty feet (50') and a parking setback of thirty-five feet (35') on lots 19A and 19C and to allow for a principal structure setback of fifteen feet (15') on lot 19B in lieu of the required minimum structure setback of one hundred feet (100') and the minimum parking setback of fifty feet (50') in the Highway Corridor Overlay (HC) district. A fifty foot (50') variance to the required structure setback and a fifteen foot (15') variance to the required parking setback are sought for lots 19A and 19C and an eighty five foot (85') variance the required structure setback is sought for lot 19B. Additionally, a request for a variance from Warren County Code §180-

27H(1) to allow for a principal structure setback of fifteen feet (15') in lieu of the required minimum front setback of fifty feet (50') for a principal structure in the Commercial (C) district. A thirty-five foot (35') variance to the required principal structure setback is sought. The property is located at (0) John Marshall Highway and is identified on tax map 31G, section 2, block 5, as lots 19A, 19B, and 19C. The property is zoned Commercial (C) for lots 19A and 19C and is split-zoned Commercial (C) and Agricultural (A) on lot 19B. The property is located within the Highway Corridor Overlay District (HC) and located in the Happy Creek Magisterial District. The property is owned by ValleyGate, LLC.

M. Larry Andrews acquired the properties in March of 2006 where he shortly thereafter sought a zoning map amendment for the parcels to be rezoned from Agricultural to Commercial with dedicated proffers. In 2011, the subject properties were subdivided via a Class A Subdivision which established the three existing parcels. Over the course of a couple of years, Mr. Andrews sought to develop a Subway and other general commercial retail uses that did not result in completed projects. The properties were later sold to ValleyGate LLC in April of 2025.

This application for a zoning variance was received on June 17, 2026. Upon review of the application materials, it is evident the applicant is seeking variances for three parcels:

- Lots 19A and 19C: The applicant proposes principal structures setback 50 feet from the Highway Corridor and parking setback 15 feet from the Highway Corridor requiring:
 - A 50-foot variance from the required 100-foot principal structure setback;
 - and
 - A 35-foot variance from the required 50-foot parking setback.
- Lot 19B: The applicant proposes a principal structure setback of 15 feet from the Highway Corridor, requiring:
 - An 85-foot variance from the required 100-foot principal structure setback.

Additionally, the underlying Commercial (C) District requires a 50-foot front setback for principal structures. Because the proposed principal structure setback on Lot 19B is 15 feet, the applicant is also requesting a 35-foot variance from the Commercial District's front setback requirement.

In the Statement of Justification, the applicant states the subject parcels possess unique physical characteristics, including an unusually shallow depth in relation to their extensive frontage along Route 55, which limits the developable area under the Highway Corridor Overlay (HC) District setback requirements. The applicant further notes that approximately 30 feet of frontage was previously dedicated as right-of-way for future roadway improvements, reducing the depth of the parcels and further constraining development opportunities. According to the applicant, the resulting parcel configuration creates difficulties in meeting the HC setbacks while allowing reasonable use of the property, asserting that the proffers anticipated the potential need for setback relief due to the combination of the right-of-way dedication and the parcels' frontage-to-depth ratio. The applicant contends that the requested variances would allow reasonable

Board of Zoning Appeals Meeting

development of the property consistent with its zoning designation and the intent of the Commercial District.

The minimum structure and parking setback requirements of one hundred feet (100') and fifty feet (50') in the HC zoning district was adopted by the Warren County Board of Supervisors as part of the original HC zoning district regulations of the Zoning Ordinance of Warren County, Virginia, made effective on June 16, 1998. A fifty-foot front yard setback for principal buildings is required in the Agricultural, Residential-One, Residential-Two, Rural Residential, Commercial, and Industrial zoning districts. Outside of the higher density Village Residential and Suburban Residential zoning districts, the fifty-foot setback is the standard front yard setback for all properties located in the Warren County jurisdiction. The statement of intent for the HC zoning district under Code §180-29.1 states, "...*This district has been established to further carry out the purposes of Article 7, Title 15.2, Code of Virginia 1950, as amended, in the Highway Corridor Overlay (HC) District by regulating and determining the use of land, buildings, structures and other premises for specific uses, and the areas and dimensions of land, water and airspace to be occupied by buildings, structures and uses, and of courts, yards and other open spaces to be left unoccupied by areas and structures; to facilitate the creation of a convenient, attractive and harmonious community; and to protect the health, safety and general welfare of the public by the prevention or reduction of traffic congestion and visual clutter which may result in danger on public and private streets...This district is created in recognition of the need to provide suitable and sufficient road systems in the County and the need to protect existing and future highways from unsafe use and enhance the aesthetics of the County's highway corridors. ...*"

Mrs. Wahl stated that the public hearing was not properly advertised, but requested that the public hearing be held and a motion be made to pause the closing of the public hearing until the August 6th, 2026 regular meeting of the Board of Zoning Appeals. She then stated that there were two public comments from residents that were presented to the Board in the Agenda Packet.

Mr. Kushner stated that the application states the property is located in the Shenandoah magisterial district, but the staff report stated the property was located in the Happy Creek Magisterial District. He then requested that the application be amended to reflect the correct magisterial district.

Mr. Kushner opened the public hearing and invited the applicant to testify.

Chadi Dirani, Owner ValleyGate, LLC, 8057 Montour Heights Drive, Gainesville

Mr. Dirani was sworn in and stated that they are working with a difficult piece of property and are trying to develop the property in a way that would benefit the community. He then invited Mr. Brogan to speak on his behalf.

Joe Brogan, Brogan Land Surveying, 152 Brogan's Lane, Browntown

Mr. Brogan was sworn in and stated that his office was working with Mr. Dirani on conceptual layouts and preliminary plans for use on the property. Through the course of his research on the property's proffers, he came to the realization that the situation with

Board of Zoning Appeals Meeting

the property is complicated. He stated that the property suffers from a physical hardship that was not self-inflicted. 18 years ago, an amended proffer statement between the County and the owner of record at the time was prepared and recorded at the Warren County Clerk's Office for rezoning of parcels 19A, 19B, and 19C.

As a condition of that rezoning, the proffer required the property owner to dedicate a substantial portion of the highway frontage to the County to accommodate future road widening.

The text of that proffer recognized that taking this land would significantly impact the property's buildable area. The proffer explicitly stated that in order to accomplish the dedication, waivers from these exact overlay setbacks must be granted.

The prior property owner fulfilled their obligation and dedicated the frontage to the County. However, the corresponding administrative waivers were never formally processed.

Because the front property line was pushed significantly backward by this dedication, the application of corridor district setbacks denies Valleygate, LLC of reasonable use of the property for commercial use.

This variance request reflects the intended terms of the rezoning and it aligns with the existing building and parking setbacks of neighboring commercial properties.

Mr. Kushner asked if Mr. Dirani had anything else to add?

Mr. Dirani stated that he wished to show the Board the conceptual plan for the development of the property, but, since the video display was not working, he offered to provide that information to the Board.

Mr. Kushner stated that the presentation was provided to them in the agenda packet.

Mr. Kushner asked the Board if there were any questions? The Board did not have questions.

Mr. Dirani stated that he had met with Planning Staff and there had been acknowledgement that it would be a difficult property to develop and that a similar request had been previously granted.

Mr. Kushner asked if there is anyone else who wished to testify at the public hearing?

Andrew Scholle, 125 Red Barn Lane, Linden

Mr. Scholle requested that a traffic study be completed before any decisions are made on the variance request given that was the conclusion previously drawn by the Planning Commission. He stated that there is a substantial history in regards to the proffer and previously made zoning decisions, but John Marshall Highway is an incredibly busy highway. The plans do not show any road improvements that acknowledge the impacts that would occur on his neighborhood or the Highway itself. He stated that there is also a real concern about the access for emergency services to his neighborhood based on increased traffic volume due to the development. He stated that he believes the proposal has an insufficient amount of parking and that it could lead to increased parking on the shoulder of the road. He also has questions about the proposed visualizations, the proximity to the railroad, and the elevation.

Board of Zoning Appeals Meeting

Mr. Kushner stated that, in speaking to the applicant and looking at the documentation that had been provided, the applicant has fully agreed to completing a traffic impact study and the parking requirements would be considered by the Planning Department at a later point in development.

Mr. Kushner asked if anyone else wished to speak and, with no one else coming forward, requested a motion to continue the public hearing in light of the advertisement not being completed?

Mr. Newman moved to continue the public hearing on August 6, 2026 at 7:00PM. Mr. Robinson seconded and by unanimous vote, the motion was adopted.

Adoption of Regular Meeting Minutes of November 6, 2025:

Mr. Kushner asked if there were any comments on the minutes as they were provided, and, hearing none, approved the minutes of the November 6, 2025 meeting.

Adjournment:

Mr. Kushner moved to adjourn the meeting at 7:23PM.



Warren County Board of Zoning Appeals Chairman