



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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December 4, 2023

**TO THE MEMBERS OF CITY COUNCIL
CITY OF HARRISONBURG, VIRGINIA**

SUBJECT: *Consider a request from Patricia Valle-Alvarez to rezone 505 Northglen Lane*

**EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING
COMMISSION MEETING HELD ON:** November 8, 2023

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the subject property is a corner parcel located on the southeastern corner of Northglen Lane and Hearthstone Lane. Corner lots are required to provide a principal building setback equal to the required front setback for all yards adjoining a public street. For the subject property, which is zoned R-2, such setbacks are 30-feet.

The existing dwelling was constructed in 1986 and included an uncovered rear deck. In October 2015, a permit was issued for the construction of a 5-foot by 18-foot uncovered deck to run along the length of the dwelling facing Hearthstone Lane and connected to the rear deck. On March 29, 2023, it was brought to the attention of the Department of Community Development that the deck was being replaced and covered but without an approved building permit. The property owner was notified, and then a building permit was submitted. During the building permit review, zoning staff flagged the permit for setback concerns as the covered porch would not meet setback requirements. Note that uncovered porches may project in to the front setback one-third the required distance. However, covered porches and decks must meet principal building setbacks.

In an effort to correct the violation, the applicant applied for a variance to the Zoning Ordinance through the Board of Zoning Appeals (BZA). In August 2023, the BZA denied the variance request.

The applicant is now requesting to rezone the property to the R-8 district, which offers reduced front yard setbacks. If approved, the structure would be in zoning compliance.

The applicant is requesting to rezone a +/- 10,525-square foot property from R-2, Residential District to R-8C, Small Lot Residential District Conditional. The property is located at the

southeastern corner of Northglen Lane and Hearthstone Lane and is addressed as 505 Northglen Lane.

Proffers

The applicant has offered the following proffers (written verbatim):

1. More than one dwelling is prohibited.
2. The setback off of Northglen Lane will be no closer than 30 feet.
3. The setback off of Hearthstone Lane will be no closer than 20 feet.

The conceptual site layout is not proffered.

Regarding proffer #1, in the R-8 district, single-family detached homes and duplexes are allowed by right if the lot area and dimensions of the property are met. If the rezoning is approved, although the R-8 district dimensional regulations would allow the property to be further subdivided, the submitted proffer prohibits more than one dwelling on the property, and thus they would be restricted to having only one dwelling unit on the property.

The R-8 district typically allows for 10-foot front yard setbacks, however, proffers #2 and #3 are further restricting front yard setbacks. Specifically, the applicant has proffered that the front yard setback along Northglen Lane shall be 30-feet, which is consistent with the property's existing R-2 setback requirements, but then allowing for a 20-foot setback along Hearthstone Lane, which would provide the flexibility needed to bring the existing illegally covered porch in to zoning compliance.

Land Use

The Comprehensive Plan designates this site as Low Density Residential and states:

These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

With the submitted proffers, use and density conforms with the Low Density Residential designation. Know also that the R-8 district's occupancy regulations are the same as the existing R-2 district's occupancy regulations, which allow owner-occupied dwellings to be occupied by a family plus two individuals or a maximum of three individuals while nonowner-occupied dwellings may be occupied by a family plus one individual or a maximum of two individuals.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the rezoning request.

Public Water and Sanitary Sewer

Staff has no concerns with the requested rezoning regarding water and sewer matters.

Housing

Rezoning this property to R-8 will not impact housing as the site will essentially maintain its current density provisions.

Public Schools

Rezoning this property to R-8 with the submitted proffers will not change the estimated student generation for the property.

Recommendation

Staff recommends approving the rezoning.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Patricia Valle Alvarez, the applicant, came forward regarding this request. She said I would like you all to consider this because I have three kids and I like to get them outside as much as possible. When there is inclement weather, it is not as easy to do without a covered porch. My grandma also comes to my house and watches my kids and she takes my dogs out so I would like to prohibit her from slipping if there is inclement weather.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan continued to say we have seen quite a few of these and we are seeing another one this evening. How do we feel about this?

Vice Chair Byrd said since I have a different hat on this time that I am seeing this, I have no issues with changing the setback relative to Hearthstone, which is the only significant change to this. Besides the property that would also be their neighbor on Hearthstone, I do not see how this would spread in the existing neighborhood where there would be a bunch of people asking for the same type of thing. Under those circumstances I would be in favor of this.

Commissioner Armstrong said given the proffers, I support it.

Chair Finnegan said I am sure this will come up again but when we have time to revisit the Zoning Ordinance, I think it would be good to think about how we could prevent these kinds of request by allowing certain setbacks by right. I do not know what that language would look like. So far, have we denied any requests like this that you are aware of that is R-1 to R-2 or R-8 so that they could build a covered porch? It would be good to address this in the Zoning Ordinance rewrite.

Vice Chair Byrd said in light of that, I would like to make a motion to approve the request.

Vice Mayor Dent seconded the motion.

Commissioner Armstrong	Aye
Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye

Commissioner Alsindi	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the rezoning request passed (7-0). The recommendation will move forward to City Council on December 12, 2023.