

**King and Queen County  
Board of Zoning Appeals  
Minutes  
July 18, 2022**

**MINUTES  
BOARD OF ZONING APPEALS  
July 18, 2022**

The Board of Zoning Appeals (BZA) of King and Queen County met in the King and Queen County Courts and Administration Building, in the General District Courtroom on July 18, 2022, at 6:00 P.M., with public notice having been published in the *Tidewater Review* and *Rappahannock Times* and written notice mailed to interested parties, as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended. The following Board members and staff were present:

Ann Marie Voight  
Robert Bland, IV  
Bruce Taylor  
Thomas “Tommy” Adkins

Donna Sprouse, Director of Community Development

**IN RE:  
CALL TO ORDER**

Chairman, Mr. Bland called the meeting to order. Mr. Bland asked Mrs. Sprouse to take roll call and determine if there is a quorum. Mrs. Sprouse determined that there was a quorum with four members present.

**IN RE:  
APPROVAL OF AGENDA**

Mr. Bland stated he would entertain a motion to approve the agenda. A motion was made by Mr. Taylor to approve the agenda as presented, seconded by Mr. Adkins.

*Voting For: Voight, Bland, Taylor, Adkins  
Voting Against: None  
Abstain: None*

**IN RE:  
APPROVAL OF MINUTES**

A motion was made by Mr. Adkins to approve the minutes as written, seconded by Mrs. Voight. The April 18, 2020 minutes were approved.

*Voting For: Adkins, Bland, Taylor, Voight*  
*Voting Against: None*  
*Abstain: None*

**IN RE:**  
**NEW BUSINESS**

Mr. Bland asked Mrs. Sprouse to please review the request.

Mrs. Sprouse noted that before they start the public hearing, she wanted to ensure that everyone stayed in compliance of 15.2-2308.1 so she asked each member of the BZA if they have had any communications with the applicant, property owner, agent, or staff about the facts of this case outside of this meeting.

Mr. Adkins stated, “*no communications*”.  
Mr. Taylor stated, “*no communications*”.  
Mr. Bland stated, “*no communications*”.  
Mrs. Voight stated, “*no communications*”.

Mrs. Sprouse, as non-legal staff, also stated that she had no communications with any of the BZA members nor the applicant/property owner.

Mrs. Sprouse thanked the BZA and then presented the following:

William B. Littreal – *Applicant*  
William B. & Maria E. Littreal – *Property Owners*  
*Public Hearing Notice provided in the Tidewater Review and Rappahannock Times*  
*(June 29th & July 6th). Adjoining land owner notification provided by certified*  
*return receipt on June 24th, 2022.*

**BACKGROUND**

The Planning and Zoning Department received an application to the Board of Zoning Appeals (“BZA”) on May 27, 2022 from William B. Littreal on behalf of William B. & Maria E. Littreal, requesting a variance from Zoning Ordinance, Article 5, Table 5.1, Minimum Dimensional Regulations for Primary Zoning Districts. The applicant wishes to construct an attached accessory structure, more specifically a garage to the existing single-family residence.

**GENERAL INFORMATION**

**LOCATION**

The subject property is located at 247 Courthouse Landing Terrace, in the Stevensville Magisterial District. The property is identified as County Tax Map Parcel No. 1624-54R-32J.

**PROPOSAL**

Mr. & Mrs. Littreal requests a variance from Zoning Ordinance, Article 5, Table 5.1, Table of Minimum Dimensional Regulations for Primary Zoning Districts. Their request is to construct a 16’ x 40’ garage with a 3’ covered roof connecting the proposed garage to the existing residence. Mr. & Mrs. Littreal requests the following: (1) a 55-foot variance to allow for a front yard setback of 20 feet and (2) a 24-foot variance to allow for a side yard setback of 1 foot for the proposed structure.

**ZONING ORDINANCE**

Pursuant to Zoning Ordinance, Title II, Article 5, Table 5.1 the required front yard setback for primary structures in the Residential Single-Family Zoning District is 75 feet and the minimum required front yard setback for primary structures is 25 feet.

| TABLE 5.1<br>TABLE OF MINIMUM DIMENSIONAL REGULATIONS FOR PRIMARY ZONING DISTRICTS |   |   |                         |                             |
|--|---|---|-------------------------|-----------------------------|
| (1)  | (2)   | (3)   | (4)                     | (5)                         |
| MINIMUM SETBACKS AND BUILDING BULK REQUIREMENTS                                    |   |   |                         |                             |
| ZONING DISTRICT  | MINIMUM SETBACKS <sup>1</sup><br>(in feet)                              |   |                         | MAXIMUM HEIGHT OF BUILDINGS |
|  | FROM FRONT PROPERTY LINE  | FROM SIDE PROPERTY LINES  | FROM REAR PROPERTY LINE |                             |
| A<br>Agricultural  | 100 feet, except that only 20 feet is required for school bus shelters, | 40 feet   | 25 feet                 | None                        |
| R-R<br>Residential Rural   | 75 feet   | 25 feet   | 25 feet                 | 35 feet                     |
| R-S<br>Residential Single-family   | 75 feet   | 25 feet   | 25 feet                 | 35 feet                     |
| R-G<br>Residential General   | 75 feet   | 25 feet, provided that side and rear setbacks adjacent to properties in any zoning district which permits residential uses shall not be less than 50 feet. See Article 6, Section 3-111(B). |                         | 35 feet                     |
| LB<br>Limited Business   | 75 feet   | 15 feet, provided that side and rear setbacks adjacent to properties in any zoning district which permits residential uses shall not be less than 50 feet.                                  |                         | 35 feet                     |

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| (1)  | (2)  | (3)  | (4)                     | (5)   |
| MINIMUM SETBACKS AND BUILDING BULK REQUIREMENTS  |  |  |                         |   |
| ZONING DISTRICT  | MINIMUM SETBACKS <sup>1</sup><br>(in feet) |  |                         | MAXIMUM HEIGHT OF BUILDINGS   |
|  | FROM FRONT PROPERTY LINE                   | FROM SIDE PROPERTY LINES   | FROM REAR PROPERTY LINE |   |
| GB1<br>General Business 1  | 75 feet                                    | 15 feet, provided that side and rear setbacks adjacent to properties in any zoning district which permits residential uses shall not be less than 50 feet. |                         | 35 feet   |
| GB2<br>General Business 2  | 100 feet                                   | 15 feet, provided that side and rear setbacks adjacent to properties in any zoning district which permits residential uses shall not be less than 50 feet. |                         | 60 feet   |
| LI<br>Light Industrial   | 100 feet                                   | 50 feet, except for lots, which abut property in non-industrial districts, then 100 feet.  |                         | No more than the distance from the base or foundation of the building or structure to the nearest lot line. |
| I<br>Industrial  | 100 feet                                   | 50 feet, except for lots, which abut property in non-industrial districts, then 100 feet.  |                         | No more than the distance from the base or foundation of the building or structure to the nearest lot line. |
| <p>Notes:</p> <p><sup>1</sup>For any lot located within the Chesapeake Bay RPA, the setback requirements shall be determined by the Chesapeake Bay Regulations, Article 12.</p> <p><sup>2</sup>For front yard requirements for waterfront lots the front yard setback for accessory buildings is fifty (50) feet from the road frontage. A front yard buffer may be required unless waived by the Zoning Administrator as not necessary. The site drawing and accessory building architecture must be approved by the Zoning Administrator to ensure that the proposed accessory structure is compatible and consistent with other buildings in the area.</p> <p><sup>3</sup> For Government Offices/Fire/Rescue/Police Stations, setbacks may be reduced for the expansion of or new construction of any fire &amp; rescue building, provided that the proposed building or addition is no less than 50' from the front property line and 15' from the side and rear property lines. Otherwise, a variance must be approved by the BZA.</p> |  |  |                         |   |

**Sec. 3-114. - Modifications to height and bulk regulations.**

The height and bulk regulations shall be adjusted in applicable cases in conformity with the modifications set forth as follows:

A. *Public/semi-public building height:* A public or semi-public building such as a school, church, library, or general hospital may be erected to a height of 60 feet from grade provided that required front, side and rear yards shall be increased three feet for each foot in height over 35 feet.

B. *Chimneys, steeples, towers.*

(1) The height regulations set forth in this ordinance shall not apply to buildings intended for agricultural uses, or to spires, belfries, cupolas, antennae attached to buildings, water tanks, windmills, ventilators, chimneys or similar

appurtenances attached to the roof of a building and not intended for human occupancy, provided that the height of such appurtenances shall not constitute a hazard to the safe operation of aircraft.

(2) The height of freestanding antennae in any district shall be no greater than the distance from the base of the antenna to the nearest property line.

C. Accessory buildings Accessory buildings shall not be constructed in a front yard on a lot that is three acres or less, except on waterfront lots as provided in footnote 2 of Table 5.1. An accessory building may be constructed in a front yard on a lot that is more than three acres, provided that the requirements for front yard setbacks in article 5, Table 5.1 are met and in conformity with all other applicable provisions of this ordinance.

(1) No accessory building shall be more than one story in height, which is within 15 feet of an adjoining property line.

(2) Accessory buildings located closer than ten feet to a main building shall be construed to be a part of the main building for the purposes of yard regulations and such buildings, whether connected to the main building or not, shall observe all front, side and rear yard regulations applicable to main buildings.

(3) No accessory building shall be used for dwelling purposes.

(4) An accessory building may be built in a rear yard but provided that it shall not occupy more than 30 percent of a rear yard and shall not be nearer than five feet to any side or rear lot line.

## **ZONING**

The property is zoned Residential Single-Family (RS). The property is considered a pre-existing non-conforming lot in acreage, frontage and house placement/setbacks. The house is located within the 100' Resource Protection Area buffer (RPA).

## **BOARD OF ZONING APPEALS SUMMARY/COUNTY CODE REFERENCE**

### **Sec. 3-462. - Powers and duties.**

Pursuant to Code of Virginia, § 15.2-2309, 1950, as amended, the board of zoning appeals shall have the following powers and duties...

B. *Variances.* The BZA may authorize, upon appeal in specific cases, variances from the terms of this zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result

in unnecessary hardship; provided that the spirit of this zoning ordinance shall be observed and substantial justice done according to the following:

(1) *Variance defined<sup>1</sup>*: A variance is a reasonable deviation from the provisions of this zoning ordinance regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of this zoning ordinance would result in unnecessary or unreasonable hardship to the property owner; provided, however, that:

(a) Such need for a variance would not be shared generally by other properties;

(b) The variance is not contrary to the intended spirit and purpose of this zoning ordinance;

and

(c) The variance would result in substantial justice being done.

A variance shall not include a change in the use of property, which shall be accomplished by rezoning the property.

(2) *Grounds for variance*: The BZA may grant a variance when the property owner can show that the property was acquired in good faith, and:

(a) Where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of this zoning ordinance;

(b) Where by reason of exceptional topographical conditions or other extraordinary situation or condition of such piece of property, or the use or development of property immediately adjacent thereto, the strict application of terms of this zoning ordinance effectively prohibit or unreasonably restrict the use of the property; or

(c) Where the BZA is satisfied, upon the evidence heard by it that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant. Every variance shall be in harmony with the intended spirit and purpose of this zoning ordinance.

(3) No variance shall be authorized by the BZA unless it finds:

(a) That the strict application of this zoning ordinance would produce undue hardship;

(b) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

(c) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

(4) No such variance shall be authorized except after public notice and public hearings as required by Code of Virginia, §§ 15.2-2204 and 15.2-2205, 1950, as amended.

(5) No variance shall be authorized unless the BZA finds that the condition or situation of the property is not of so general or recurring a nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to this zoning ordinance.

(6) In authorizing a variance, the BZA may impose such conditions regarding the location, character, and other features of the proposed structure for 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.

**REMINDER – (Should the variance be approved)**

**3-467 Lapse of Special Exception or Variance**

*“A special exception or variance granted by the Board of Zoning Appeals shall lapse and be of no effect if, after the expiration of one (1) year from the date of such action by the BZA, no construction or change in use pursuant to such special exception or variance has taken place; provided that the BZA may, for good cause shown, specify a longer period of time in conjunction with its action to grant a special exception or variance.”*

**STAFF RECOMMENDATION**

The subdivision in which this parcel is located, was created in 1965. There is a 40' wide right of way that provides access to this and various other parcels within the subdivision. The parcel acreage per the deed of record is .45 of an acre. The waterfront lots in this pre-existing non-conforming subdivision are all approximately 100' wide. The current lots that have a single-family residence, range from approximately 47 feet - 78 feet from the front property line (the line that runs along the 40' wide right of way). With the exception of one home on the riverside of the right of way (it's a 2-story home), the homes are all between 1,196 and 1,802 sq. ft. in size. Of those 8 homes, the largest single-story home is that of the applicant. The Littreal's currently have a 1,802 sq. ft. ranch style home, not including the attached garage, a deck, open porch, and rear enclosed porch (see the assessment sheet and assessment photo, attached). According to the construction plans submitted with the permit issued in 1999 for the garage addition, the current attached garage is now 33' x 20' (though the assessment detail has that the garage as 24' x 20'). Allowing for a 20' front setback and a 1' side yard setback would increase the non-conformity of the structure and the parcel. Staff does not recommend approval of the variance request.

Mrs. Sprouse noted that the applicant/property owners are present tonight to speak to their request.

Mr. Bland opened the public hearing and asked if the applicant wished to speak.

Mr. Littreal, property owner, who resides at 247 Courthouse Landing Terrace approached the BZA. He thanked the Board for their consideration and all that they do for this beautiful county. He also thanked Mrs. Sprouse for her help in insuring that his application was complete. Mr. Littreal handed out a copy of the aerial map in color, a picture of his property and his neighbor's property, and a copy of the type of addition he would like to construct if approved. Mr. Littreal agreed that the way that Mrs. Sprouse had depicted the area in her report is accurate and realizes that the BZA is particularly concerned with creating a precedence in granting this variance. He thinks that the description of the lots, that there is not another waterfront community with lots that narrow and small. Therefore, it really restricts the ability to adequately store boats and jet skis, as it's a waterfront community, so the landowners will have those things. He would like to get his boat out of sight and hide it away so its not out all winter long. He mentioned the photo he provided that shows a fence along the property line between he and his neighbor. Mr. Littreal noted that several lots in the community have shared driveways. He noted that variances have been granted in the past in this community and there have been boundary lines redrawn so that other property owners could construct garages. Mr. Littreal noted that his neighbor Mr. Harris was present and would be glad to answer any questions that the Board may have tonight. He added that his neighbor is not objective to this variance request. He noted that if there were another location that he could place this structure on the lot, he would consider it. Mr. Littreal noted that the construction of the structure will be of high quality and most importantly will not obstruct the view of the river for anyone. He added that this community is served by a private road and there isn't a lot of high traffic that comes through there other than guest and residents of the community. Mr. Littreal thanked the Board and asks that they consider his request for approval. He added that he would be glad to answer any questions that they may have.

Mrs. Voight asked about the staff report and the fact that the assessor's property card had a specific size of the existing garage and the building permit for the garage addition request had another. She asked if there was already an addition made to the garage. Mrs. Sprouse explained that the prior owner applied for a variance to encroach into the front setback in order to construct an addition to the existing garage in 1999. The request was approved and the addition was constructed. It appeared to her that the assessor may not have that information which could be why the size of the garage differs from that of the construction plans.

Mr. Littreal noted that it was not an uncommon thing in his community to have a variance granted because both of his neighbors had variances from the side yard setback. Mrs. Sprouse noted that he was referring to the neighbor, Mr. Harris. She added that the Mr. Harris, the neighbor to the right of the applicant, did receive approval of a variance of 15.5' and 17.5' to allow for 7.5' and 9.5' side yard setback for the construction of a 25' x 26' attached garage in 2006.

Mr. Adkins asked why did the applicant want the proposed structure so far in the front of the house rather than in line with the house. Mr. Littreal noted that was because there was a side door there that is also the side that has the electrical panel box and HVAC. Moving or relocating those items would be costly.



Mrs. Voight asked if he couldn't build the garage on his property, did he have other options for placing the garage on another parcel close by or possibly store the boat elsewhere such as a marina. Mr. Littreal noted that there was not covered storage that he is aware of in the area.

Mrs. Voight asked if he had looked at buying another piece of property to building the garage. She noted that the property across the road has a garage on that lot. Mr. Littreal noted that it was his understanding that those lots were adjusted and the previous landowner of those parcels bought land from the neighbor across the right of way and added it to their existing lot. The right of way runs through the property and it is not a newly created lot. Mrs. Sprouse confirmed what Mr. Littreal noted about the neighbor who adjusted his property line across the right of way adding acreage and frontage to his property in order to accommodate the garage building. Mr. Littreal added, in full disclosure, he does own another parcel in the community. He added that it is the exact same size as his current property with the house and he would run into the same issues on the new lot if he were to build something on that other parcel. He added that he acquired the parcel so that no one else would come into the subdivision. He noted that he does not have any plans at this time to develop that property he purchased.

Mrs. Voight asked Mrs. Sprouse if Mr. Littreal could put a garage on the property he purchased. Mrs. Sprouse responded that he could, however the structure would need to meet the same setbacks as a primary structure because there is no residence on the property. This would be the first and only structure, therefore it would be the primary structure and would be required to meet the same setbacks as if it were a house. Mrs. Sprouse added that depending on the size and location of the garage, would determine if a Chesapeake Bay Exception would be needed and/or a variance, if either. She noted that she couldn't say for sure it could be placed without either an exception or variance. She added that if setbacks of a primary structure were met or if an exception or variance were granted, then yes, the garage could go on the vacant parcel. Mrs. Voight asked the applicant, so there are other options, correct. Mr. Littreal replied, certainly, I guess, it wouldn't make economic sense to take a prime waterfront lot and just put a garage on it for storage. He noted that he would hate that for the county and the subdivision. Mrs. Voight noted that Mr. Littreal said that he didn't want to develop the property. Mr. Littreal responded that at some point he may want to use it as a residential lot and would hate to ruin a prime piece of waterfront land with just a garage on it. He added that he wasn't sure that would serve the greater good.

Mrs. Voight asked Mrs. Sprouse if the applicant could build a garage on the property and in the future, he removes the garage to build a house, could he do that? Mrs. Sprouse noted that it depends on the size of the house and its placement, again it may need either an exception or variance. She added that the prior owner of the vacant lot that Mr. Littreal now owns had applied before the Planning Commission to build a house and the house encroached within the 100' RPA buffer. Mrs. Sprouse stated that the previous land owners house size and site plan was approved by the Commission. If the current owner wishes to build a home, he may need to go through a similar process as the previous property owner. Mrs. Sprouse added

that this community was created before the Chesapeake Bay Act, the adoption of the zoning ordinance, and that they are all really tight lots. Mrs. Voight said that Mrs. Sprouse could not say that having a garage on that lot would prohibit building a home. Mrs. Sprouse responded maybe not what they want but something could be built, yes.

Mr. Littreal thanked the Board.

Mr. Bland opened the floor for public comment. He asked that those that wish to speak, please state their name and address for the record.

Mr. Jon Harris, who resides at 255 Courthouse Landing Terrace. He said that he was Bill's neighbor. He said that he is not a lawyer and not sure if it even applies, but there were covenants prepared and recorded by the original owner, Mr. Taylor in 1964. He noted that the covenant does not allow for rental property and it must be single family home on these lots. He is not sure that Mr. Littreal would be permissible to build a garage alone on the vacant lot. He added that the covenants states there is to be no trailers, no temporary structures of any kind, like a hunt shack. Mr. Harris noted that he was not sure how that comes into play with Mr. Littreal's request, but he does have a copy of the covenant and he assumes that the covenant would be applicable to anyone that comes before the Board when it comes to the development of property in the community.

Mrs. Voight asked if the garage or parcel across from the right of way, was it not apart of the subdivision. Mr. Harris noted that in 1964 the covenants only applied to the waterfront lots. Mr. Adkins noted that the detached garage Mrs. Voight is asking about is all on the same property as the house on the river side. Mr. Harris said that when the lots were created in 1964, that land north on the other side of the right way was not apart of the development. That the boundary line adjustment was done recently between Mr. Gordon and the neighbor behind them. Mr. Harris noted that he has no issue with this plan what so ever. He said that he realizes that is unusual, but when he applied for his variance, he made the same request of this Board. He continued on stating that these are all small lots, waterfront or not, they are small. You wouldn't want an aluminum structure out there, where everyone is trying to improve their properties and community.

Mr. Bland closed the public comment period.

Mr. Bland closed the public hearing.

Mr. Bland asked Mrs. Sprouse what was the requirements for this metal structure that Mr. Harris speaks of. Mrs. Sprouse noted that it's a structure that would need to meet the same requirements if it were stick built. That setbacks would apply and a building permit would need to be obtained. Mrs. Voight noted that a metal carport isn't considered temporary but a tarp like structure or cover would be. Mrs. Sprouse noted that the canvas cover over pvc piping is considered a temporary structure but a metal carport is not. Mrs. Voight noted that this could be an option, to put a tarp up though she is not sure that they make one large enough to put a boat under.

Mr. Bland said in regards to VAR22-02, he needs a motion and a second either for or against the variance. He noted that he would like to remind the board that to have a motion to approve the variance, they need to make sure that they can make all of the required findings as noted on their motion sheets. If they make a motion to deny the variance, they would need to state which of the findings they have found. If there is a motion to approve the request, they would need to make all of the findings.

At this time Mr. Bland asked for a motion from the board.

Mr. Adkins noted that he would like to make a motion to approve VAR22-02 and made the following findings:

*“-The property was acquired in good faith; and  
-where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of this Zoning Ordinance;  
-where by reason of exceptional topographical conditions or other extraordinary situation or condition of such piece of property, or the use or development of property immediately adjacent thereto, the strict application of terms of this Zoning Ordinance would effectively prohibit or unreasonably restrict the use of the property; or where the BZA is satisfied, upon the evidence heard by it that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.  
-that the strict application of this Zoning Ordinance would produce undue hardship;  
-that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and  
-that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.”*

The motion was seconded by Mr. Taylor.

*Voting For: Taylor, Adkins  
Voting Against: Bland, Voight  
Abstain: None*

The motion to approve VAR22-02 died due to a tie vote and the request is hereby denied.

**IN RE:  
BOARD MEMBER COMMENTS**

Mr. Adkins said that this was not an easy request. I will now say that there was one of the findings that I had a trouble finding out of the six. The one that he struggled

with was the middle one, the exceptional topographical conditions. Obviously, boating is a big part of our community. Boats are stored generally and there have been similar variances in this area granted. He did have an issue with the side yard setback only being 1 foot from the property line. He was glad the neighbor showed up because he struggled with it. The neighbor received a variance is 7.5' from the line. Between that variance and this one, we are talking about 5 feet. He could see that this would restrict the use of the property.

Mr. Taylor said that in that community in the past, they have granted variances people to put up garages because it is so narrow and the lots are so tight. He's understanding in wanting to have a place to put your boat and jet ski. In some instances, boats can cost just as much as a home. He noted that is probably one of the few unique subdivisions in the County as it relates to small lots on the water.

Mr. Bland said that he understands the others comments, but 1' off of the property line, you give everyone approval for 1', that area would look like New York City as far as he is concerned. It is tough on this Board because we are bound by the required findings. He said that the community has some real nice houses but the side yard setback that close tipped the scale for him.

Mrs. Voight said that she had no comments.

**IN RE:  
STAFF COMMENTS**

None

**IN RE:  
ADJOURN**

Hearing no further comments, a motion was made by Mr. Adkins to adjourn the meeting, seconded by Mr. Taylor. The motion was ratified by all present members stating "Aye".

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Robert Bland, IV, Chair