

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
JANUARY 6, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on January 6, 2021, at 10:00 a.m. via Zoom due to the Covid 19 virus. Joining were Chairman Jeff Brown presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Debbie Sue Przybysz, Vice Chairman Scott McColpin, Mr. Paul Betbeze, Mr. Joe Manuel and Ms. Jackie Thomas. Absent was Mr. Robert Parks. Also joining were City Attorney Phil Noblett, City Staff Attorney Joseph Kelly and Ms. Dottie McKinney, Secretary to the Board.

Staff members joining were Mr. Trevis Swilley, Code Enforcement Inspector II, Mr. Randy Ridge, Zoning Inspector II, Mr. Shannon Mikus, Transportation Designer and Ms. Karna Levitt, Landscape Architect. Ms. Lori Roberson, Court Reporter, was taking transcription of the proceedings via Zoom.

MINUTES:

The December minutes were ready to be approved. Hearing no objection from the Board, the minutes were entered as written.

SWEARING IN:

The applicants were sworn in one by one, and staff was sworn in as well by Court Reporter Lori Roberson via Zoom.

INTRODUCTION (RULES AND REGULATIONS):

Chairman Jeff Brown explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdraw w/o prejudice. If your case is denied, you must wait one (1) year before you can re-apply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Chairman Jeff Brown said the next month's meeting would be held on Wednesday, February 3, 2021, most likely via Zoom. City Attorney Phil Noblett said the Governor has given orders that the meetings will be by way of Zoom until the end of February.

Chairman Brown said that unless there are no objections from the Board, he would like to roll Case BOZA-20-94 to the last item on the Agenda. Hearing no objection the case was rolled to the last item on the Agenda.

OLD BUSINESS:

**BOZA-20-93
THEODORE WHEELER
1329 GREENWOOD DRIVE**

Theodore Wheeler requests a reduction in right side setback from 25' to 10' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Theodore Wheeler addressed the Board. Mr. Wheeler said he tried to build on the property a house that would fit if they did not get the reduction but he is hoping to get the reduction.

Discussion followed.

City Attorney Phil Noblett explained Section 38-567 and the conditions that must apply before the Board can grant a variance. He said this is a triangular shaped piece of property with 2 road frontages.

Jackie Thomas made a motion to deny Case BOZA-20-93 based on the fact that there is not a hardship that the owner did not create. Joe Manuel seconded the motion.

Discussion followed.

A roll call of the votes was taken at this time. Jackie Thomas – yes, Debbie Sue Przybysz – yes, Alan Richelson – no, Scott McColpin – yes, Joe Manuel – yes, Paul Betbeze – yes, Ray Adkins - no and Chairman Jeff Brown – no

The motion carried to deny. The case is denied.

BOZA-20-94
MARK MCCRAW
1607 CENTRAL AVENUE

Mark McCraw requests a parking variance to reduce space count from required 125 to 69, a landscape variance on Central Avenue for required street yard to be hardscape and a landscape variance on 17th Street for required street yard to be partially on City ROW for new construction.

Chairman Jeff Brown said in last month's meeting regarding this case a comment was made about the Board dragging their feet. Having thought about that comment, he felt it necessary to state for the record that this Board is sensitive of the timelines of all the cases that comes before it and the Board does not drag its feet. This Board will move as quickly as it can when it has the proper and all the information it needs. He said the Board did not have enough information to act on this case last month.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He presented a new map that was submitted late yesterday.

Councilman Erskine Oglesby said he would be listening in on this case and if he decided to speak he was sworn to tell the truth.

Brad Northcutt addressed the Board. Mr. Northcutt said one of the primary things was to identify parking that was adjacent to the site. The site and project are an adapted reuse. They are trying to maximize as much parking as possible. They are limited to what area is available to provide parking. He said they have an existing parking lot and there is a homeless center next to it. They anticipate those spaces being available and have a verbal agreement that the parking spaces can be used after hours.

Brad Russell addressed the Board. Mr. Russell said he looked to see what other parking could be available and worked with CDOT and the owner, physically measuring the streets.

Discussion followed with Mr. McCraw saying he did not need a variance along 17th Street.

Karna Levitt, Landscape Architect addressed the Board. Ms. Levitt said the building closest to Central Avenue is a legal non-conforming existing building to remain. Along Central the street yard requirement is 8' behind the property line to be unpaved street tree planting area. This is the requirement for the private property. She said her understanding is the applicants want to add more pavement and create more of a plaza type design. The applicants intend to provide the number of trees and are just asking to reduce a small grass strip. She said the applicants want to reduce the open planting area that is unpaved.

City Staff Attorney Joseph Kelly explained Section 38-567 and the conditions that must apply before the Board can grant a variance.

Debbie Sue Przybysz made a motion to approve Case BOZA-20-94 for the parking reduction from 123 to 63 and to approve the landscape variance for the open planting area that is unimproved on Central Avenue in the patio area, as shown on the plans submitted. Paul Betbeze seconded the motion.

Discussion followed.

A roll call of the votes was taken at this time. Ray Adkins – yes, Paul Betbeze – yes, Joe Manuel – no, Scott McColpin – yes, Alan Richelson – no, Debbie Sue Przybysz – yes, Jackie Thomas – no and Jeff Brown - yes

The motion carried to approve. The case is approved.

NEW BUSINESS:

**BOZA-20-97
CHRIS ANDERSON/GREENTECH
1203 O'GRADY DRIVE**

Chris Anderson with Greentech requests a second kitchen in order to provide living space for elderly parents being taken care of by homeowners.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Chris Anderson addressed the Board. Mr. Anderson said this is in Lookout Valley. They have a multi-generational family attempting to live on one property. They want permission to build a second kitchen. The current Ordinance does not make it easy for multi-generational families. He said he has the homeowner, Jeremy Fitzsimmons, available to answer any questions.

Jeremy Fitzsimmons addressed the Board. Mr. Fitzsimmons said he works downtown a lot. He said utility wise it is connected and integrated in the same house. He just wants to live together as a family.

Discussion followed.

Councilman Erskine Oglesby addressed the Board. Councilman Oglesby said he has no problem with their request. He says we are getting into the aspect of what could happen later on with this particular piece of property but he sees no problem with granting this request.

Ray Adkins made a motion to approve Case BOZA-20-97 for the interpretation of the regulation. Scott McColpin seconded the motion but added a condition that it never be used as a rental. Ray Adkins agreed to the condition.

Chairman Brown restated the motion. The motion on the floor is this Board having interpreted that this remains as a single family housing finds that the building official's reluctance to grant a kitchen is overridden in this specific case provided that the combined structure or any portion thereof is not used for rental purposes. Both Ray Adkins and Scott McColpin agreed with the restated motion.

City Attorney Phil Noblett explained Section 38-567 and the conditions that must apply before the Board can grant a variance. He said this is not a variance but an interpretation.

Discussion followed.

Councilman Darren Ledford addressed the Board. Councilman Ledford said it does meet the definition of City Code. He said as Chairman of the Zoning and Planning Commission he feels families are striving to stay together. He said the Commission would be looking at ADU's next. COVID has brought a strong challenge at what people are facing. He will always put families first. He thanked the Board for their service.

A roll call of the votes was taken. Jackie Thomas – no, Debbie Sue Przybysz – abstained, Alan Richelson – yes, Scott McColpin – yes, Joe Manuel – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

City Attorney Phil Noblett said this was an interpretation and not a variance. He left the meeting at this time. City Staff Attorney Joseph Kelly took over the meeting.

At this time a 5 minute break was taken.

**BOZA-20-98
MITCH HOLLAND/WATERS-HOLLAND
911 ELINOR STREET**

Mitch Holland with Waters-Holland requests an additional 2' reduction in front setback only for a length of 9.5' along the corner of the home.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Mitch Holland addressed the Board. Mr. Holland said you can see from the site plan there is one corner of this project that he is asking a variance on. He would like it to be conditional for this one area. He does not want the entire setback moved. He is just trying to get more space to get garage doors in there.

Discussion followed.

City Staff Joseph Kelly said this case came before the Board for a similar request. The Board can consistently act on this case as before.

Paul Betbeze made a motion to approve case BOZA-20-98 for an additional 2' reduction in front setback (from 15' to 11') only for a length of 9.5' along the corner of the home only, and make sure it adheres to the site plan provided. Ray Adkins seconded the motion.

A roll call of the votes was taken. Jackie Thomas – yes, Debbie Sue Przybysz – yes, Alan Richelson – yes, Scott McColpin – yes, Joe Manuel – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

OTHER BUSINESS:

None

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.



CHAIRMAN

2/3/2021

DATE



SECRETARY

2/3/21

DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
FEBRUARY 3, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on February 3, 2021, at 10:00 a.m. via Zoom due to the Covid 19 virus. Joining were Chairman Jeff Brown presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Debbie Sue Przybysz, Vice Chairman Scott McColpin, Mr. Paul Betbeze, Mr. Joe Manuel, Mr. Robert Parks and Ms. Jackie Thomas. Also joining were City Attorney Phil Noblett, City Staff Attorney Joseph Kelly and Ms. Dottie McKinney, Secretary to the Board.

Staff members joining were Mr. Trevis Swilley, Code Enforcement Inspector II, Mr. Randy Ridge, Zoning Inspector II and Mr. Shannon Mikus, Transportation Designer. Ms. Lori Roberson, Court Reporter, was taking transcription of the proceedings via Zoom.

MINUTES:

The January minutes were ready to be approved. Scott McColpin moved to approve the minutes as written. Ray Adkins seconded the motion. The January minutes were approved as written.

SWEARING IN:

The applicants were sworn in one by one, and staff was sworn in as well by Court Reporter Lori Roberson via Zoom.

INTRODUCTION (RULES AND REGULATIONS):

Chairman Jeff Brown explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdraw w/o prejudice. If your case is denied, you must wait one (1) year before you can re-apply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Chairman Jeff Brown said the next month's meeting would be held on Wednesday, March 3, 2021. Unless we hear otherwise, the meeting next month will be via Zoom.

NEW BUSINESS:

**BOZA-20-99
JASON LENTZ/PAUL & PAIGE KINCER
305 BELVOIR AVENUE**

Jason Lentz on behalf of Paul and Paige Kincer requests a reduction in right side setback from 10' to 5.5' to meet the existing setbacks.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this property is zoned R-1. He said he received several letters from neighbors supporting this request.

Paige Kincer addressed the Board. Ms. Kincer said she is the owner of the property. She said they are adding an addition for her mother. Since they are displacing the garage for her bedroom and bathroom they are moving the garage back and just want to keep the same site line. There is an additional garage being built.

Discussion followed.

City Attorney Phil Noblett said if this is a lot of record and less than 5' the applicants do not need a variance. Provided that the addition is no less non-conforming than the setback of the existing structure, the Board has the ability to act on this variance.

Alan Richelson made a motion to approve Case BOZA-20-99 for the reduction in right side setback from 10' to 5.5' to meet the existing setbacks due to it being no less non-conforming to the existing structure property. Ray Adkins seconded the motion. The motion was amended to 5' by Scott McColpin. Ray Adkins agreed to the amendment.

A roll call of the votes was taken at this time. Ray Adkins – yes, Paul Betbeze – yes, Joe Manuel – yes, Scott McColpin – yes, Alan Richelson – yes, Debbie Sue Przybysz – yes, Robert Parks – yes and Jeff Brown – yes.

The motion carried to approve. The case is approved.

**BOZA-21-1
BRAD ECKLUND
430 MANUFACTURERS ROAD**

Brad Ecklund on behalf of Merrill Gardens at Chattanooga requests a special permit for an assisted living facility.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this property is zoned E-CX-4 and R-RV-6.

Brad Ecklund addressed the Board. Mr. Ecklund said there is nothing that has changed to the facility. It has the same number of units and parking spaces. Merrill Gardens owns the property.

Discussion followed.

City Attorney Phil Noblett explained Section 38-567 and the conditions that must apply before the Board can grant a variance.

Ray Adkins made a motion to approve Case BOZA-21-1 for the special permit for an assisted living facility subject to the checklist. Paul Betbeze seconded the motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Sue Przybysz – yes, Alan Richelson – yes, Scott McColpin – yes, Joe Manuel – no, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown - yes

The motion carried to approve. The case is approved.

**BOZA-21-2
MIKE PRICE/N & R PROPERTIES
4631 HIGHWAY 58**

Michael Price on behalf of N & R Properties requests a landscape variance (reduction of the required street yard depth from 8' minimum to 1.5' minimum for a portion of the street yard area).

No opposition was present.

Inspector Trevis Swilley said the applicants requested to withdraw their variance.

Chairman Jeff Brown said without objection Case BOZA-21-2 is withdrawn without prejudice. It was unanimous to withdraw without prejudice. The case is withdrawn.

Jackie Thomas joined the meeting at this time.

**BOZA-21-3
DANIELLE HAWLEY
7722 STANDIFER GAP ROAD**

Danielle Hawley requests relief from Sec. 38-74 for Minimum Lot Frontage.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Josh Barr addressed the Board. Mr. Barr said he was representing the Hawleys today. He said they wanted the road frontage variance so they could sell the 2 condos individually. Under the current zoning they need a road frontage variance in order for the condos to be considered fee simple and be allowed to sell them individually.

Discussion followed.

After a lengthy discussion Mr. Barr said it might be wise to defer to next month.

City Attorney Phil Noblett said he was looking at Sec. 38-84 regarding specific requirements outside the overlay zone. He felt that this property was outside the urban overlay zone.

Chairman Jeff Brown made a motion to defer case BOZA-21-3 to next month. Scott McColpin seconded the motion. Without objection, the case was deferred to next month. It was unanimous to defer to the March meeting.

City Attorney Phil Noblett said there are specific site plan requirements that they need to meet in connection with this zoning. He said he needed to leave the meeting and said City Staff Attorney Joseph Kelly could take over.

**BOZA-21-4
KARCINDA ROBERTS
1905 TUNNEL BOULEVARD**

Karcinda Roberts requests a special permit for a daycare facility.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Chairman Jeff Brown said without objection Case BOZA-21-4 is deferred to next month. It was unanimous to defer to next month. The case is deferred to the March meeting.

**BOZA-21-5
DIAMOND MARTIN
804 TUNNEL BOULEVARD**

Diamond Martin requests a special permit for a daycare facility.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Diamond Martin addressed the Board. Ms. Martin said she needs to get the special permit in her name. She is changing the name of the daycare to Rainbow Academy.

Discussion followed.

City Staff Attorney Joe Kelly said special permits are not transferrable. With a change of ownership, the new owner will have to do this.

Jackie Thomas made a motion to approve Case BOZA-21-5 for a special permit for a daycare facility subject to the information on the checklist. This facility has been here for over 30 years. Scott McColpin seconded the motion.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Joe Manuel – yes, Scott McColpin – yes, Alan Richelson – yes, Debbie Sue Przybysz – yes, Robert Parks – yes, Jackie Thomas – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-6
JAY CAUGHMAN/APRIL HUGHES WATSON
1363 CARRINGTON WAY**

Jay Caughman on behalf of April Hughes Watson requests an Interpretation of the Regulation.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this property is zoned R-1.

Jay Caughman addressed the Board. Mr. Caughman said this is an existing house. His client would like to build a pool and a small pool house in the rear of the property. There is a drainage

easement through the middle of the back yard and side of the property. With the location of the drainage easement he cannot position the pool and the pool house to the home. He is looking for the definition of an accessory structure. He is looking for what he can and cannot put in that pool house.

City Staff Attorney Joe Kelly said a pool house would fit in with an accessory structure. He said this qualifies as an accessory structure under the Code. Without the kitchen request, this would not be an issue. He said Mr. Caughman could have a sink, an icemaker and a refrigerator in the pool house. As long as there is not a cooktop in there, the applicant would probably be ok. This Board can allow this request or not and can apply conditions such as, it cannot be rented.

Jeff Brown made a motion on Case BOZA-21-6 that it is the interpretation of this Board that (1) a pool house is a legitimate use for an accessory structure and (2) a cooktop is acceptable provided that the applicant stipulates (a) that it will not be used as a dwelling unit and (b) the structure will not be used as a rental unit. Alan Richelson seconded the motion.

Discussion followed.

Joe Manuel offered to restate for the motion as follows: The Board interprets this pool house as an accessory structure. The Board also interprets that it is not a dwelling unit and may not be utilized as a dwelling unit. An item such a cooktop may be properly installed. The structure may not be used as a rental unit or any short term dwelling unit. Jeff Brown accepted this substitution for the motion. Alan Richelson seconded the amended motion.

Paul Betbeze left the meeting at this time.

A roll call of the votes was taken. Ray Adkins – yes, Joe Manuel – yes, Scott McColpin – no, Alan Richelson – yes, Debbie Sue Przybysz – abstained, Robert Parks – yes, Jackie Thomas – no and Jeff Brown – yes

The motion carried to approve. The interpretation is entered.

**BOZA-21-7
PETER ROMANO/1040 E. MAIN LLC
1040 E. MAIN STREET**

Peter Romano on behalf of 1040 E. Main LLC requests a parking variance (reduction in parking requirement from 166 spaces to 95 spaces).

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said the zoning is UGC. He received an email from Councilman Byrd and 6 letters from the neighborhood who are in support of this variance.

Mike Flanagan with Chazen Companies addressed the Board. Mr. Flanagan said he was representing the applicant. They had to remove a lot of the buildings to get what they have now. They have obtained small parking shares and there is ample parking. This will have a positive impact on the neighborhood. He said they used UGC's reductions and calculations in parking.

Discussion followed.

Shannon Mikus from CDOT addressed the Board. Mr. Mikus said Mr. Flanagan mentioned high density in his statement. He said there are bus routes and bike routes and other means of vehicular transportation that do not require onsite parking as well. He said it is in line with RPA's plan.

City Staff Attorney Joe Kelly said this is under the same legal standards as last month. The Board has the discretion to grant or not to grant this variance. The project last month mentioned use of on-street parking and that is not a legal on-street parking claim.

Chairman Jeff Brown said there are valid points regardless on which side you fall on. He has been hearing for years how parking requirements are over-inflated and need to be looked at. Until this gets addressed by the City, the City cannot continue to lean on this Board or other Boards to do their dirty work for them. He will open the floor for a motion.

Robert Parks made a motion to approve Case BOZA-21-7 for the reduction in parking from 166 spaces to 95 spaces. Jeff Brown seconded the motion.

Discussion followed.

Debbie Sue Przybysz said she needed to recuse herself from this case.

A roll call of the votes was taken. Jackie Thomas – no, Robert Parks – yes, Alan Richelson – no, Scott McColpin – no, Joe Manuel - no, Ray Adkins – yes and Jeff Brown – yes

The motion to approve failed. The case is denied.

OTHER BUSINESS:

Request for a Second Kitchen - After the meeting there was discussion regarding cases asking for a second kitchen and the questions and/or problems they present. Chairman Jeff Brown said he did not know if it was best to schedule time before or after the meeting to talk about cooktops. He said that Dallas Rucker, LDO Director, might want to participate in the discussion. City Staff Attorney Joe Kelly said any discussion among the Board members needs to be in a public setting. It was decided that this discussion would happen at the end of next month's meeting regarding cooking surfaces. Chairman Brown also said it would be advantageous to reach out to our councilmembers to be in attendance as well.

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.



CHAIRMAN



DATE



SECRETARY



DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
MARCH 3, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on March 3, 2021, at 10:00 a.m. via Zoom due to the Covid 19 virus. Joining were Chairman Jeff Brown presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Debbie Sue Przybysz, Vice Chairman Scott McColpin, Mr. Paul Betbeze, Mr. Joe Manuel, Mr. Robert Parks and Ms. Jackie Thomas. Also joining were City Attorney Phil Noblett, City Staff Attorney Joseph Kelly and Ms. Dottie McKinney, Secretary to the Board.

Staff members joining were Mr. Trevis Swilley, Code Enforcement Inspector II, Mr. Randy Ridge, Zoning Inspector II and Mr. Shannon Mikus, Transportation Designer. Ms. Lori Roberson, Court Reporter, was taking transcription of the proceedings via Zoom.

MINUTES:

The February minutes were ready to be approved. Scott McColpin made a motion to approve the minutes as written. Robert Parks seconded the motion. The February minutes were approved as written.

SWEARING IN:

The applicants were sworn in one by one, and staff was sworn in as well by Court Reporter Lori Roberson via Zoom.

INTRODUCTION (RULES AND REGULATIONS):

Chairman Jeff Brown explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdraw w/o prejudice. If your case is denied, you must wait one (1) year before you can re-apply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Chairman Jeff Brown said the next month's meeting would be held on Wednesday, April 7, 2021, most likely via Zoom.

OLD BUSINESS:

**BOZA-21-3
DANIELLE HAWLEY
7722 STANDIFER GAP ROAD**

Danielle Hawley requests relief from Sec. 38-74 for Minimum Lot Frontage.

No opposition was present.

Inspector Trevis Swilley said the applicants would like to withdraw their request without prejudice.

Chairman Jeff Brown made a motion by unanimous consent to withdraw without prejudice case BOZA-21-3. Hearing no opposition, the case was withdrawn without prejudice.

**BOZA-21-4
KARCINDA ROBERTS
1905 TUNNEL BOULEVARD**

Karcinda Roberts requests a special permit for a daycare facility.

No opposition was present.

Inspector Trevis Swilley said the applicant needed to defer to the April meeting.

Chairman Jeff Brown made a motion by unanimous consent to defer Case BOZA-21-4 to next month. The case is deferred to the April meeting. It was noted that it has been deferred twice now.

Chairman Brown said we would have a discussion of a second kitchen in a single family residence after the meeting.

NEW BUSINESS:

**BOZA-21-8
STERLING JETTON
7511 CLYDE ROAD**

Sterling Jetton requests relief from Sec. 38-44 Minimum Lot Frontage in an R-1 zone.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this is an R-1 zone.

Sterling Jetton addressed the Board. Mr. Jetton said he purchased a house and lot in September and remodeled it. He was looking to get approval from the City to construct a new house. It is on a dead end street. He would like to build in the same size and it will be like the other houses.

Discussion followed.

City Attorney Phil Noblett said when there is no ROW that has been developed, it makes it difficult to provide City services like garbage, fire and other vehicles to get there. It looks clearly that Clyde Road should go all the way through and was proposed to go all the way through but it has not been developed since 1958. He said the applicant has a wide enough lot. There is just not enough frontage of a road in front of his property to allow emergency vehicles to get there.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said a temporary use permit is meant to allow citizens to develop and utilize temporary use. It has not been used yet for emergency City services and that is what the requirement is here to build to a City standard. He explained that City Standard streets are 22' lanes. It shows the base, asphalt, width and usually curb, gutter and sidewalk that is required as well. He said they work with Stormwater on this as well. Basically it would be a standard asphalt street with basing and asphalt.

The meeting adjourned for 5 minutes. Mr. McColpin's call was dropped. He was able to connect to the meeting again and the meeting was called back to order.

Scott McColpin made a motion on Case BOZA-21-8, to grant relief from Sec. 38-44 Minimum Lot Frontage in an R-1 zone, and put a dimension on 25' instead of the 60' as required by the Code. Jeff Brown seconded the motion.

Discussion followed.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Joe Manuel – abstained, Alan Richelson – no, Debbie Sue Przybysz – yes, Robert Parks – yes, Jackie Thomas – abstained, Scott McColpin - yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-9
SULMAN JAVID
117 BUSH STREET**

Sulman Javid requests a reduction in right side setback from 25' to 15' for new construction.

Opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this property is zoned R-1 and is a lot of record.

Sulman Javid addressed the Board. Mr. Javid said he would like to get a house built at this location. The house would be for his brother and he would like to have more yard for the kids to play. It would meet the criteria for City standards.

Discussion followed.

City Attorney Noblett listed the hardships that must be the reason for the variance. He said there are a number of houses that have 15' from the roadway because their frontage is on that street.

Richard Motto addressed the Board in opposition. Mr. Motto said he lives up the street and also being an architect, he does not see why the applicant could not design the house with a back yard for the kids to play in that space. The house would be out of character on that street.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said he cannot tell from the site plan if there is an adequate site triangle distance at a regulated intersection.

Inspector Swilley said this would be consistent with lot of record setbacks that would be allowed on any other lots, but this just happens to be a corner lot. The 15' would get the applicant out of the site triangle.

Ray Adkins made a motion to approve Case BOZA-21-9 for the reduction in right side setback from 25' to 15' for new construction based on other. Robert Parks seconded the motion.

Discussion followed.

Mr. Adkins then said the request did not appear to have a hardship. Chairman Brown said according to the rules given by the City of Chattanooga, it is not a valid motion under the rules we have been given and therefore it cannot stand. He entertained a new motion.

Scott McColpin made a motion to withdraw without prejudice Case BOZA-21-9. Paul Betbeze seconded the motion.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Joe Manuel – yes, Scott McColpin – yes, Alan Richelson – yes, Debbie Sue Przybysz – yes, Robert Parks – yes, Jackie Thomas – yes and Jeff Brown – yes

The motion carried to withdraw without prejudice. The case is withdrawn without prejudice. Mr. Javid was told that since there was no hardship, the Board could not make a motion to approve his request. He could come back to the Board anytime if he changed his request because the Board withdrew without prejudice his request and would not have to wait the one (1) year.

**BOZA-21-10
DARIAN PARIS
1309 SPEARS AVENUE**

Darian Paris requests a reduction in rear setback to 5' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said the zoning is R-1 and a lot of record. He said he received one (1) letter in opposition.

Darian Paris addressed the Board. Mr. Paris said due to the size of the lot, he wants to build his home on this lot. There is 40' of buildable space. He has been working with an architect in looking at ways to put a nice looking home on the lot. They initially applied for the abandonment of the alley and that did not come through. Reducing the rear to 5' will give them a footprint and possibly give them 2 stories. The current setbacks make it hard to build. Mr. Paris said the land was just transferred to him.

Discussion followed.

Shazman Ali addressed the Board. Mr. Ali said he was not in opposition. He lives on 1311 and towards the end of last year, Mr. Richard Mcusic was trying to get a variance as well. In Mr. Mcusic's case, it was 3' and now all three of them want to build on this lot.

City Staff Attorney Joe Kelly said this is a flat lot square in shape. Other than that the lot is too small to place the house on. It is hard to see how the Board could approve this since the Board voted against these similar variances on this street. He said this Board is limited to what they consider a hardship and they do not get to determine what the hardship is.

Chairman Brown said the hardship cannot be created by the applicant. Chairman Brown told the applicant that if the request was denied, he would have to wait one (1) year before he can come back with changed setbacks.

Ray Adkins moved to deny Case BOZA-21-10 for the request. Paul Betbeze seconded the motion.

A roll call of the votes was taken. Jackie Thomas – yes, Robert Parks – yes, Debbie Sue Przybysz – abstained, Alan Richelson – yes, Scott McColpin – yes, Joe Manuel - yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – abstained

The motion to deny is approved. The case is denied.

Before City Attorney Phil Noblett left the meeting, he told the Board that the Governor extended the meetings by Zoom until April 28, 2021.

BOZA-21-11
HENRIETTA MORRIS
4919 MAYFAIR AVENUE

Henrietta Morris requests a second kitchen, a reduction in rear setback from 25' to 3' and a reduction in right side setback from 5' to 1.3' for an addition to an existing structure.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this is zoned R-1.

Henrietta Morris addressed the Board. Ms. Morris said she wants to build a room and wants to extend the existing structure. The property has always been there but she wants to update the kitchenette. She said she wants to add that room at the back of the property where the shed is located. Her hardship is irregular lot shape and narrowness and topo with existing conditions today.

Discussion followed.

Ms. Thomas recused herself from the case. She said she has a conflict.

More discussion followed.

Alan Richelson made a motion to deny Case BOZA-21-11 based on the fact that there is no hardship. Scott McColpin seconded the motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Sue Przybysz – yes, Alan Richelson – yes, Scott McColpin – yes, Joe Manuel – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – abstained

The motion to deny is approved. The case is denied.

BOZA-21-12
JOSH COOPER/BULLARD
1630 HILLCREST ROAD

Josh Cooper on behalf of Bailey & Jonathan Bullard requests an additional kitchen on the property.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said the property is zoned R-1.

Josh Cooper, Architect addressed the Board. Mr. Cooper said this is a connected garage to the residence with an internal stair to a second floor and that second floor would be a future proposed live-in suite for long term care or assisted care.

Discussion followed.

Paul Betbeze made a motion to approve Case BOZA-21-12 for a second kitchen with the stipulation that it will not create a second dwelling unit that will be rented to anyone other than aging family members. Alan Richelson seconded the motion. Chairman Brown wanted to amend the motion to say it will not be used as a rental of any kind. Paul Betbeze agreed to the amendment.

Discussion followed.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Joe Manuel – yes, Scott McColpin – yes, Alan Richelson – yes, Debbie Sue Przybysz – abstained, Robert Parks – yes, Jackie Thomas – no and Jeff Brown – yes

The motion carried to approve. The case is approved.

OTHER BUSINESS:

Second Kitchens – Dallas Rucker, Director of the Land Development Office was able to join the discussion about second kitchens. He said the Chief Building Inspector can look at the layout of a house and determine if a second dwelling unit can be created. He said a lot of this came about because of STVRs. A lot of people were creating duplexes with second kitchens. The reason they go to the Board is to appeal any decision on the staff's part. If they come before the Board and the Board grants it, there would be a record where staff could have documentation on their end. Mr. Rucker said we could possibly have something attached to the motion that bars the applicant from renting. Chairman Brown asked if there was a way to attach an affidavit to a building application in which they would be swearing under oath that they would not be using this property for rental properties. It would stop the loop from having to come to this Board back and forth. Mr. Rucker said that is fine with him. He said City staff has started the process of re-writing the Code. Many things have been put on hold because of COVID.

City Staff Attorney Joe Kelly said he wants this Board to make those types of exceptions. He said the Land Development Office (LDO) wants a blanket rule. They want a place where there is a record created and have documentation from this Board. They will not have an issue with this Board making a decision over-ruling their decision. Chairman Brown said there are two questions that we need to ask as a Board: (1) making sure it is not going to be used as a rental and (2) making sure it is going to be a consistent acceptable policy that if it is for a family member, (different generations), are we going to perceive that as a matter of course?

Mr. Manuel said he agreed with the Chairman's comments. He felt that we needed to bring this to the City Council's attention. And if the City Council changes the definition of a dwelling unit, that would supersede this. Mr. Manuel said we may want to create a subcommittee to make recommendations to the Board.

Mr. Richelson said if the LDO could have a document that would run with the property rather than amendment to the deed that would let LDO have the applicant verify that it could never be used as a rental. If the LDO could get the applicant to make that determination it would not need to come to us.

Mr. McColpin suggested to record it with the Register's office and make it perpetual with the land. Ms. Thomas asked how the community would know that Interpretation of the Regulations is about second kitchens, and that maybe the request should be listed as Second Kitchen.

Ms. Przybysz said we need City Council's help in making these determinations. She said she keeps abstaining on these requests because she is waiting for more language. She said she would talk to her City Council person about this immediately.

Chairman Brown said the Board members could touch base with their City Council member regarding this matter.

City Staff Attorney Kelly said he will reach out to other municipal councils to see what they are doing in their cities.

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.


Vice CHAIRMAN


DATE


SECRETARY


DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
APRIL 7, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on April 7, 2021, at 10:00 a.m. via Zoom due to the Covid 19 virus. This was the first of 2 meetings for the month of April due to a high volume of cases. Joining were Chairman Jeff Brown presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Debbie Sue Przybysz, Vice Chairman Scott McColpin, Mr. Paul Betbeze, Mr. Joe Manuel and Mr. Robert Parks. Absent was Ms. Jackie Thomas. Mr. Joe Manuel informed the Board that he would be joining later. Also joining were City Attorney Phil Noblett, City Staff Attorney Joseph Kelly and Ms. Dottie McKinney, Secretary to the Board.

Staff members joining were Mr. Trevis Swilley, Code Enforcement Inspector II, Mr. Randy Ridge, Zoning Inspector II, Ms. Karna Levitt, Landscape Architect and Mr. Shannon Mikus, Transportation Designer. Ms. Lori Roberson, Court Reporter, was taking transcription of the proceedings via Zoom.

MINUTES:

The March minutes were ready to be approved. Scott McColpin made a motion to approve the minutes as written. Paul Betbeze seconded the motion. The March minutes were entered as written.

SWEARING IN:

The applicants were sworn in one by one, and staff was sworn in as well by Court Reporter Lori Roberson via Zoom.

INTRODUCTION (RULES AND REGULATIONS):

Chairman Jeff Brown explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdraw w/o prejudice. If your case is denied, you must wait one (1) year before you can re-apply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Chairman Jeff Brown said the second month's meeting would be held on Wednesday, April 14, 2021 via Zoom.

OLD BUSINESS:

**BOZA-21-4
KARCINDA ROBERTS
1905 TUNNEL BOULEVARD**

Karcinda Roberts requests a special permit for a daycare facility.

No opposition was present.

Inspector Trevis Swilley said the applicant wished to defer to the May meeting. He said the applicant requested to defer 2 other times.

Scott McColpin made a motion to withdraw without prejudice Case BOZA-21-4. Robert Parks seconded the motion.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Scott McColpin – yes, Alan Richelson – yes, Debbie Sue Przybysz – yes, Robert Parks – yes and Jeff Brown – yes.

All in favor, the case withdrawn without prejudice.

NEW BUSINESS:

**BOZA-21-14
MICAH MORRISON
524 TUCKER STREET**

Micah Morrison requests a reduction in right side setback from 5' to 3' for an accessory structure.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said a letter of support came in from the neighbor.

Keith Riley addressed the Board. Mr. Riley said he represented Micah Morrison. Mr. Riley also lives a couple doors down at 516 Tucker Street. He said Mr. Morrison has a carport in disrepair and he wants to replace it with a garage. He has a survey from a couple of years ago.

Discussion followed.

City Attorney Phil Noblett said before the Board can grant a variance, a hardship needs to be in place. The addition or extension cannot be in conflict with the character or the area of which the property is located. If there are other areas where the garages are right on the line in this area that is something the Board should consider in connection with this case. And the fact that this is an extension or addition of a non-conforming use of something already there is something to consider.

Paul Betbeze made a motion to approve Case BOZA-21-14 for the reduction in right side setback from 5' to 3' for the addition of the accessory structure, as long as it is according to the site plan submitted, and it is no less non-conforming than the current structure and the other structures on that alley in the neighborhood. Robert Parks seconded the motion.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Scott McColpin – yes, Alan Richelson – yes, Debbie Sue Przybysz – yes, Robert Parks – yes, and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-15
SHONAGH ADELMAN
310 NOLL STREET**

Shonagh Adelman requests a reduction in front setback from 25' to .5' and a reduction in right side setback from 10' to 5' for enclosing a carport.

Opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Shonagh Adelman addressed the Board. Ms. Adelman said when she purchased the house several years ago this carport existed and she wanted to close it in and turn it into an art studio.

Discussion followed.

City Attorney Phil Noblett said normally if there is an existing building one would assume it is in conformance. He said this Board has the authority to grant a variance if it is not in conflict with the area or the Zoning Plan. He has not heard about other properties built too close in this area either.

Paul Betbeze made a motion to deny Case BOZA-21-15 for the reduction in front setback from 25' to .5' and a reduction in right side setback from 10' to 5' for enclosing a carport, based on the fact that there is no valid hardship. Scott McColpin seconded the motion.

Discussion followed with Ms. Adelman saying she purchased the house for the purpose of turning that space into a studio and that is her hardship. She feels that she is being penalized for someone else's mistake.

A roll call of the votes was taken. Robert Parks – no, Debbie Przybysz – yes, Alan Richelson – no, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – no and Jeff Brown – no. The motion failed. Therefore, a new motion was made.

Alan Richelson made a motion to approve Case BOZA-21-15 for the request based on the fact that it is no less non-conforming to enclose the carport within 6" of the front property line and reducing the right side setback from 10' to 5'. Ray Adkins seconded the motion.

Discussion followed.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Scott McColpin – yes, Alan Richelson – yes, Debbie Sue Przybysz – yes, Robert Parks – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

BOZA-21-16
ETHAN COLLIER CONSTRUCTION CO.
3159 CAMBER HILL

Stacey Gilbreath with Ethan Collier Construction Co., Inc. requests a second kitchen for new construction.

Opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said he received several letters in opposition.

Ernest Freistat addressed the Board. Mr. Freistat said he was the contractor for the owners and he works for Ethan Collier Construction Co. He said the homeowners are having their parents live with them and they would prefer not to have them walk up and down the stairs to use the kitchen. They would like to have the kitchen in the basement. There is no intent to lease, rent or use this as an Air B&B. He said the Home Owners Association would put a stop to it being used as a rental. This is for family members only.

Discussion followed.

Wayne Covert addressed the Board. Mr. Covert said he had to reach out to Ethan Collier; otherwise he would not have heard from him. He said they think this is a wonderful family but does not want the house to be used as a rental house if it was sold. He said they are more than willing to talk to the homeowners.

City Staff Attorney Phil Noblett said the staff for the City does not enforce the covenants and restrictions by a Homeowners Association. He said whenever you have multiple kitchens it makes it much easier to turn the structures into duplexes.

Paul Betbeze made a motion to approve case BOZA-21-16 for the second kitchen, as long as it adheres to the rules of the Homeowners Association, and is not used for rental property or a business. Jeff Brown seconded the motion.

Discussion followed. Mr. Parks said he would like to see it deferred for 30 days. Mr. McColpin said he concurred with Mr. Parks. The applicant wanted it resolved today. Mr. Betbeze said he would withdraw his motion.

Paul Betbeze made a motion to defer case BOZA-21-16 for the request until the May meeting, and have the owner speak to the Homeowners Association during that time period, and the new occupant owners make themselves available to this Board for the May meeting. Robert Parks seconded the motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – yes, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes.

All in favor, the case is deferred for 30 days. The case will be heard at the May meeting.

City Attorney Phil Noblett left the meeting at this point and City Staff Attorney Joseph Kelly joined the meeting.

BOZA-21-17
ROYA EVANS/CHATT COMMUNITY HOUSING
198 AND 200 N. WILLOW STREET

Roya Evans with Chattanooga Community Housing Development requests a reduction in front setback from 25' to 16' on one house and a reduction in right side setback from 25' to 14' on the other house.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said both lots, 198 and 200 N. Willow Streets are zoned R-1.

Roya Evans addressed the Board. Ms. Evans said she was the Executive Director of the Chattanooga Housing Development. She said these properties were donated to them in 2014. They were not aware that these properties were not lots of record. She said they build homes that are priced way below the cost to build them. These homes will be 3 bedroom, 2 bath homes and will be priced \$120,000 - \$125,000. She said at 200 N. Willow, there is part of the property line that is curved because of an easement.

Discussion followed. It was also decided to treat this case by hearing them together but making 2 separate motions.

City Staff Attorney Joe Kelly said the unusual feature is the lot shape and unusual lot size could be a basis on the corner lot shape. He said they are trying to get two (2) units in there for affordable housing.

Chairman Jeff Brown said he sees that Mr. Joe Manuel is now able to join the meeting. He said we have 8 members present and from here on out we need 5 votes in the affirmative, not 4.

Robert Parks made a motion to approve case BOZA-21-17 for 198 N. Willow Street, a reduction in front setback from 25' to 16', and on 200 N. Willow Street, a reduction in right side setback from 25' to 14', reduction in front setback from 25' to 16', and a reduction in left side setback from 10' to 5'. The hardship is unusual lot shape. Alan Richelson seconded the motion.

Discussion followed.

A roll call of the votes was taken. Robert Parks – yes, Debbie Sue Przybysz – yes, Alan Richelson – yes, Scott McColpin – abstained, Paul Betbeze – yes, Joe Manuel – abstained, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

BOZA-21-18
MONFORD RICE
511 WOODLAND AVENUE

Monford Rice requests a reduction in left side setback from 10' to 8' and a right side setback from 10' to 5.5' for a sunroom.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said it was zoned R-1. Letters of support came in for this request.

Monford Rice addressed the Board. Mr. Rice said Ryan Pearson built the house and they moved in 2012. He said Mr. Pearson came before the Board and got a variance. They want to put in a sunroom and a covered deck and would keep in line with the house. They want the covered deck on the right side and take the rest of the sunroom off the left side. The back line of the proposed sunroom would be about the same place as where the stairs would be.

Discussion followed. Chairman Jeff Brown asked since the Board cannot see what was approved before did the 5' setback need to be changed.

City Staff Attorney Joe Kelly said it is cleaner to approve the 5' setback in order to accommodate the structure that is already there. The hardship is the narrowness of the lot, which is unusual shape. Also, this use is no less non-conforming and there is no change in the footprint.

Paul Betbeze made a motion to approve case BOZA-21-18 for the reduction in left side setback from 10' to 8' and a reduction in right side setback from 10' to 5' for a sunroom. The hardship is unusual lot shape and size and it is no less non-conforming than the existing structure and other structures on the street. Scott McColpin seconded the motion.

At this time Mr. Richelson lost connection to the meeting.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Joe Manuel – yes, Scott McColpin – yes, Alan Richelson – (was not able to connect to meeting), Debbie Przybysz – yes, Robert Parks – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

BOZA-21-19
SHARON KARNES
455 MOCCASIN BEND ROAD

Sharon Karnes requests a landscape variance from the dumpster screening requirement.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said it was zoned M-1.

Chris Soro addressed the Board. Mr. Soro described the dumpsters. He said there are 4 roll-off dumpsters used by the waste treatment plant to take screenings from the plant that are brought over and then dumped into these roll-offs and are taken to the landfill once they are filled. This is a continuance and vital operation to the plant. The roll-offs are scattered over there and trash is on the ground. All of that area drains ultimately into the Tennessee River. They want to clean up that operation and provide an orderly means of loading those roll-offs and minimize the trash on the ground and then recycle the run-off and material that drains to the roll-offs. The challenge is the location of the transmission lines and in turn the property line that separates the National Park from the wastewater itself. They are high voltage lines and they do not want trees to interfere with and a situation where they have to trim those trees. They have had to get the Electric Power Board to help with the primary transmission lines. This will be a much cleaner operation. It sits back more than 400 feet from Moccasin Bend Road. They will not disturb any of the trees in the National Park. They want to leave that so it adds a sort of screening from that direction. Regarding the chain link fence there is no problem with adding those plastic slats. He said it is not easy for them to screen with the way the Ordinance is written.

Discussion followed.

Karna Levitt addressed the Board. Ms. Levitt said this is a very utilitarian facility, but does not give her authority to waive a dumpster screen. A slatted chain link fence does not provide a 100 percent visual obstruction. She said their approach was a non-standard approach and that is why they were asked to come before the Board.

City Staff Attorney Joe Kelly said the Board could approve the proposal with the condition that the chain link fence include some type of slatting that would obscure the view from the road.

Ray Adkins made a motion to approve case BOZA-21-19 for the request, and that the green slatting be entered into the fence to obscure any view from the road. The hardship is easement. Paul Betbeze seconded the motion.

Alan Richelson said he would like to be considered as not present for the vote since he missed the discussion due to losing connection to the meeting.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – yes, Scott McColpin – yes, Joe Manuel – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes.

The motion carried to approve. The case is approved.

BOZA-21-20
JOHN SASSE/MOUNT CANAAN MISSIONARY
4801 HIGHWAY 58

John Sasse with Franklin Architects on behalf of Mount Canaan Missionary Baptist Church requests a special permit for a daycare facility.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said the zoning is C-2.

Trenee Jordan addressed the Board. Mr. Jordan said they are with Mt. Canaan Baptist Church and they have a non-profit, which is Purpose Point Learning Academy that is in partnership with Chattanooga Christian. They have a lot of space there for child care. He said Gregory Williamson is also present and can speak more about the plans.

Greg Williamson addressed the Board. Mr. Williamson said they are looking at this project in two phases. Franklin Architects have drawn up the plans that the Board has. They are looking to move forward and identify anything that could be an issue and move the project along.

City Staff Attorney Joe Kelly said it appears to have plenty of space for parking.

Joe Manuel made a motion on case BOZA-21-20 to approve the special permit for a daycare facility subject to the information on the checklist. Robert Parks seconded the motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – yes, Alan Richelson – yes, Scott McColpin – yes, Joe Manuel – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

All in favor, the motion carried to approve. The case is approved.

**BOZA-21-21
CASEY POWELL
3375 CROMPTON STREET**

Casey Powell requests a reduction in rear setback from 25' to 2' for an addition and a deck.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said it was zoned R-1.

Casey Powell addressed the Board. Mr. Powell said the front is not on the original plat but it has been there for 50 years. The deck portion is in line with the house. The addition is well within the original deck and room dimension. He said all of this had to have been there for 30 years.

Discussion followed.

City Staff Attorney Joe Kelly said this is no less non-conforming than the pre-existing structures that have been there since the 30 or 50's. The request does not encroach on the unopened alleyway.

Paul Betbeze made a motion to approve case BOZA-21-21 for the reduction in rear setback from 25' to 2'. The hardship is that it is no less non-conforming than the old structure that was on the property as well as the other properties on the street, as well as the easement that is factoring in to the request. The reduction in setback only applies to the added deck area that is shown on the site plan. Scott McColpin seconded the motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – yes, Alan Richelson – yes, Scott McColpin – yes, Joe Manuel – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes.

All in favor, the motion carried to approve. The case is approved.

**BOZA-21-36
CHRIS ANDERSON/RTB HOLDINGS LLC
1041 LECONTE CIRCLE**

Chris Anderson with GreenTech Homes on behalf of RTB Holdings LLC requests a second cooktop in the basement of new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said it was zoned R-1.

Chris Anderson addressed the Board. Mr. Anderson said this family would like a second kitchen. This situation is different. The applicants have an 18 year old son with autism. He needs to live on the same level with them but would like his own kitchen. This is something he enjoys doing and improves his quality of life. None of the homes in Black Creek allow for a rental home.

Kelly Phillips addressed the Board. Ms. Phillips said when they were looking to build their home, they were looking for a space for their son. One thing that was important to his son was the ability to cook for himself. This is a way for him to calm down when he is stressed or overwhelmed. This is also vital to his mental well-being. Not only is it not allowed under the Homeowner's Association, but she has no desire or intention of becoming a landlord or renting that space.

Discussion followed.

City Staff Attorney Joe Kelly said this fits within the interpretations that the Board has given. This will not be used as a rental and the Homeowners Association prohibits rental use.

Ray Adkins made a motion to approve Case BOZA-21-36 for a second kitchen. A second cooktop does not reflect a multi-family use. The Board finds it is appropriate for a single family house with the stipulation that the property will not be used for any rental purposes. Paul Betbeze seconded the motion.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Joe Manuel – yes, Scott McColpin – yes, Alan Richelson – yes, Debbie Przybysz – abstained, Robert Parks – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-37
ALLEN JONES/CHRISTOPHER BEASLEY
4589 RACCOON MOUNTAIN ROAD**

Allen Jones with ASA Engineering Inc. on behalf of Christopher Beasley requests a reduction in front setback from 25' to 10' for new construction.

Opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Allen Jones addressed the Board. Mr. Jones said the request is for 0' setback and not 10'. There was a typo on the application. There is a dramatic drop off on the site plan. This will be built on lot 12. Mr. Beasley owns both sides of the property, lots 10, 11, 12 and 13. The reason for the 0' setback is to limit the retaining walls and land disturbance requirements.

Christopher Beasley addressed the Board. Mr. Beasley said the ground marker on the cul de sac exceeds the boundaries of the cul de sac in real life. He did not think it was buildable unless they were closer to the street. He said no other homes are within 75' of the road.

Andrew Pruett addressed the Board in opposition. Mr. Pruett said he has a petition signed by 9 of the residents that live here in the residential neighborhood. He said Mr. Beasley wants to do away from the variance and wants to subdivide. They thought it was a 10' setback and not a 0' setback. Mr. Beasley's end goal is to build an event space to do weddings and build a botanical gardens. This is a neighborhood and not a commercial space. That is something that they are not interested in. They do not want a tourist attraction.

Discussion followed.

City Staff Attorney Joe Kelly said from a topographical standpoint it is not impossible to build on the other portions of the lot. There was reference from the opposition to the restrictive covenants. That is not the issue before this Board. The Board's review is strictly limited to the setback variance for the construction.

Ray Adkins made a motion to deny case BOZA-21-37 for the request. Paul Betbeze seconded the motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – yes, Alan Richelson – yes, Scott McColpin – yes, Joe Manuel – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

All in favor, the motion carried to deny. The case is denied.

OTHER BUSINESS:

Zoom Meetings – Scott McColpin asked City Staff Attorney Joe Kelly if this Board could use the City Council's chambers with the plexy glass if the May meeting will be in person. City Staff Attorney Joe Kelly said it is likely that the May meeting will be in person but he will check on the availability of the Council's chambers.

Chairman Jeff Brown told the Board that the May meeting will be his last one on this Board. He said he and his wife are moving to Atlanta. He does not want to go but his wife has accepted a new position that requires them relocate. He will be in town a couple days a week still working at his job, but his official residence will be in Atlanta. Everyone said they would miss Chairman Brown and thanked him for his hard work on the Board.

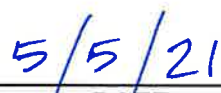
THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.




CHAIRMAN



SECRETARY



DATE



DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
APRIL 14, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on April 14, 2021, at 10:00 a.m. via Zoom due to the Covid 19 virus. This was the second of 2 meetings for the month of April due to a high volume of cases. Joining were Chairman Jeff Brown presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Debbie Sue Przybysz, Vice Chairman Scott McColpin, Mr. Paul Betbeze and Mr. Robert Parks. Absent were Ms. Jackie Thomas and Mr. Joe Manuel. Also joining were City Attorney Phil Noblett and Ms. Dottie McKinney, Secretary to the Board.

Staff members joining were Mr. Trevis Swilley, Code Enforcement Inspector II, Mr. Randy Ridge, Zoning Inspector II and Mr. Shannon Mikus, Transportation Designer. Ms. Lori Roberson, Court Reporter, was taking transcription of the proceedings via Zoom.

MINUTES:

No minutes are ready to be approved yet.

SWEARING IN:

The applicants were sworn in one by one, and staff was sworn in as well by Court Reporter Lori Roberson via Zoom.

INTRODUCTION (RULES AND REGULATIONS):

Chairman Jeff Brown explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdraw w/o prejudice. If your case is denied, you must wait one (1) year before you can re-apply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Chairman Jeff Brown said that next month's meeting would be held on Wednesday, May 5, 2021, at 10:00 a.m.

Chairman Jeff Brown moved that the normal rules of order that require the Board to go case by case are suspended and unless there are objections the rules are hereby suspended. He said we will hear BOZA cases 23-34 together as one presentation and make one motion for all these cases. Then we will hear items 1 and 14 separately as well as make a motion separately for those two cases.

NEW BUSINESS:

**BOZA-21-22
MIKE PRICE/MAP ENGINEERS
255 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' and a reduction in rear setback from 25' to 23' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval

was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not make a request for a PUD in this area.

Mr. Blackwood said if this was a PUD there would be a requirement to have a 25' setback from all exterior boundaries. He said they talked with staff about this. He said you would not be able to have any setback reductions from that 25' PUD boundary.

City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear of the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-22, 255 Riverside Avenue, for the reduction in front setback from 40' to 15' and a reduction in rear setback from 25' to 18' for new construction. The hardship is topography. Ray Adkins seconded the motion.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Scott McColpin – yes, Alan Richelson – yes, Debbie Przybysz – no, Robert Parks – yes and Jeff Brown – yes

The motion carried to approve.

**BOZA-21-23
MIKE PRICE/MAP ENGINEERS
259 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not made a request for a PUD in this area.

Mr. Blackwood said if this was a PUD there would be a requirement to have a 25' setback from all exterior boundaries. He said they talked with staff about this. He said you would not be able to have any setback reductions from that 25' PUD boundary.

City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear of the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-23, 259 Riverside Avenue, for the reduction in front setback from 40' to 15' and a reduction in rear setback from 25' to 22' for new construction. The hardship is topography. Ray Adkins seconded the motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-24
MIKE PRICE/MAP ENGINEERS
263 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not make a request for a PUD in this area.

Mr. Blackwood said if this was a PUD there would be a requirement to have a 25' setback from all exterior boundaries. He said they talked with staff about this. He said you would not be able to have any setback reductions from that 25' PUD boundary.

City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear of the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-24, 263 Riverside Avenue, to grant the reduction in front setback from 40' to 15' for new construction. The hardship is the topography. Ray Adkins seconded the motion.

Mr. McColpin said it would be better not to reference all the cases one by one but to reference BOZA 21-24 through BOZA 21-34 in the motion.

Chairman Brown amended his motion to read as follows:

Jeff Brown made a motion on cases BOZA-21-24 through BOZA-21-34 inclusive, 263 Riverside Avenue to 295 Riverside Avenue to grant the reduction in front setback from 40' to 15' for new construction. The hardship is topography. Ray Adkins seconded the amended motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-25
MIKE PRICE/MAP ENGINEERS
265 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not made a request for a PUD in this area.

Mr. Blackwood said if this was a PUD there would be a requirement to have a 25' setback from all exterior boundaries. He said they talked with staff about this. He said you would not be able to have any setback reductions from that 25' PUD boundary.

City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear of the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-24, 263 Riverside Avenue, to grant the reduction in front setback from 40' to 15' for new construction. The hardship is the topography. Ray Adkins seconded the motion.

Mr. McColpin said it would be better not to reference all the cases one by one but to reference BOZA 21-24 through BOZA 21-34 in the motion.

Chairman Brown amended his motion to read as follows:

Jeff Brown made a motion on cases BOZA-21-24 through BOZA-21-34 inclusive, 263 Riverside Avenue to 295 Riverside Avenue to grant the reduction in front setback from 40' to 15' for new construction. The hardship is topography. Ray Adkins seconded the amended motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-26
MIKE PRICE/MAP ENGINEERS
267 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have

garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

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City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear of the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-24, 263 Riverside Avenue, to grant the reduction in front setback from 40' to 15' for new construction. The hardship is the topography. Ray Adkins seconded the motion.

Mr. McColpin said it would be better not to reference all the cases one by one but to reference BOZA 21-24 through BOZA 21-34 in the motion.

Chairman Brown amended his motion to read as follows:

Jeff Brown made a motion on cases BOZA-21-24 through BOZA-21-34 inclusive, 263 Riverside Avenue to 295 Riverside Avenue to grant the reduction in front setback from 40' to 15' for new construction. The hardship is topography. Ray Adkins seconded the amended motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-27
MIKE PRICE/MAP ENGINEERS
269 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval

was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

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Jeff Brown made a motion on case BOZA-21-24, 263 Riverside Avenue, to grant the reduction in front setback from 40' to 15' for new construction. The hardship is the topography. Ray Adkins seconded the motion.

Mr. McColpin said it would be better not to reference all the cases one by one but to reference BOZA 21-24 through BOZA 21-34 in the motion.

Chairman Brown amended his motion to read as follows:

Jeff Brown made a motion on cases BOZA-21-24 through BOZA-21-34 inclusive, 263 Riverside Avenue to 295 Riverside Avenue to grant the reduction in front setback from 40' to 15' for new construction. The hardship is topography. Ray Adkins seconded the amended motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-28
MIKE PRICE/MAP ENGINEERS
271 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on

the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

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City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not make a request for a PUD in this area.

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Jeff Brown made a motion on case BOZA-21-24, 263 Riverside Avenue, to grant the reduction in front setback from 40' to 15' for new construction. The hardship is the topography. Ray Adkins seconded the motion.

Mr. McColpin said it would be better not to reference all the cases one by one but to reference BOZA 21-24 through BOZA 21-34 in the motion.

Chairman Brown amended his motion to read as follows:

Jeff Brown made a motion on cases BOZA-21-24 through BOZA-21-34 inclusive, 263 Riverside Avenue to 295 Riverside Avenue to grant the reduction in front setback from 40' to 15' for new construction. The hardship is topography. Ray Adkins seconded the amended motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-29
MIKE PRICE/MAP ENGINEERS
275 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not made a request for a PUD in this area.

Mr. Blackwood said if this was a PUD there would be a requirement to have a 25' setback from all exterior boundaries. He said they talked with staff about this. He said you would not be able to have any setback reductions from that 25' PUD boundary.

City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear of the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-24, 263 Riverside Avenue, to grant the reduction in front setback from 40' to 15' for new construction. The hardship is the topography. Ray Adkins seconded the motion.

Mr. McColpin said it would be better not to reference all the cases one by one but to reference BOZA 21-24 through BOZA 21-34 in the motion.

Chairman Brown amended his motion to read as follows:

Jeff Brown made a motion on cases BOZA-21-24 through BOZA-21-34 inclusive, 263 Riverside Avenue to 295 Riverside Avenue to grant the reduction in front setback from 40' to 15' for new construction. The hardship is topography. Ray Adkins seconded the amended motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-30
MIKE PRICE/MAP ENGINEERS
279 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not made a request for a PUD in this area.

Mr. Blackwood said if this was a PUD there would be a requirement to have a 25' setback from all exterior boundaries. He said they talked with staff about this. He said you would not be able to have any setback reductions from that 25' PUD boundary.

City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear of the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-24, 263 Riverside Avenue, to grant the reduction in front setback from 40' to 15' for new construction. The hardship is the topography. Ray Adkins seconded the motion.

Mr. McColpin said it would be better not to reference all the cases one by one but to reference BOZA 21-24 through BOZA 21-34 in the motion.

Chairman Brown amended his motion to read as follows:

Jeff Brown made a motion on cases BOZA-21-24 through BOZA-21-34 inclusive, 263 Riverside Avenue to 295 Riverside Avenue to grant the reduction in front setback from 40' to 15' for new construction. The hardship is topography. Ray Adkins seconded the amended motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

BOZA-21-31
MIKE PRICE/MAP ENGINEERS
283 RIVERSIDE AVENUE

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not make a request for a PUD in this area.

Mr. Blackwood said if this was a PUD there would be a requirement to have a 25' setback from all exterior boundaries. He said they talked with staff about this. He said you would not be able to have any setback reductions from that 25' PUD boundary.

City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear of the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-24, 263 Riverside Avenue, to grant the reduction in front setback from 40' to 15' for new construction. The hardship is the topography. Ray Adkins seconded the motion.

Mr. McColpin said it would be better not to reference all the cases one by one but to reference BOZA 21-24 through BOZA 21-34 in the motion.

Chairman Brown amended his motion to read as follows:

Jeff Brown made a motion on cases BOZA-21-24 through BOZA-21-34 inclusive, 263 Riverside Avenue to 295 Riverside Avenue to grant the reduction in front setback from 40' to 15' for new construction. The hardship is topography. Ray Adkins seconded the amended motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-32
MIKE PRICE/MAP ENGINEERS
287 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not made a request for a PUD in this area.

Mr. Blackwood said if this was a PUD there would be a requirement to have a 25' setback from all exterior boundaries. He said they talked with staff about this. He said you would not be able to have any setback reductions from that 25' PUD boundary.

City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear of the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-24, 263 Riverside Avenue, to grant the reduction in front setback from 40' to 15' for new construction. The hardship is the topography. Ray Adkins seconded the motion.

Mr. McColpin said it would be better not to reference all the cases one by one but to reference BOZA 21-24 through BOZA 21-34 in the motion.

Chairman Brown amended his motion to read as follows:

Jeff Brown made a motion on cases BOZA-21-24 through BOZA-21-34 inclusive, 263 Riverside Avenue to 295 Riverside Avenue to grant the reduction in front setback from 40' to 15' for new construction. The hardship is topography. Ray Adkins seconded the amended motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

BOZA-21-33
MIKE PRICE/MAP ENGINEERS
291 RIVERSIDE AVENUE

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not made a request for a PUD in this area.

Mr. Blackwood said if this was a PUD there would be a requirement to have a 25' setback from all exterior boundaries. He said they talked with staff about this. He said you would not be able to have any setback reductions from that 25' PUD boundary.

City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear of the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-24, 263 Riverside Avenue, to grant the reduction in front setback from 40' to 15' for new construction. The hardship is the topography. Ray Adkins seconded the motion.

Mr. McColpin said it would be better not to reference all the cases one by one but to reference BOZA 21-24 through BOZA 21-34 in the motion.

Chairman Brown amended his motion to read as follows:

Jeff Brown made a motion on cases BOZA-21-24 through BOZA-21-34 inclusive, 263 Riverside Avenue to 295 Riverside Avenue to grant the reduction in front setback from 40' to 15' for new construction. The hardship is topography. Ray Adkins seconded the amended motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-34
MIKE PRICE/MAP ENGINEERS
295 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not make a request for a PUD in this area.

Mr. Blackwood said if this was a PUD there would be a requirement to have a 25' setback from all exterior boundaries. He said they talked with staff about this. He said you would not be able to have any setback reductions from that 25' PUD boundary.

City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear of the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-24, 263 Riverside Avenue, to grant the reduction in front setback from 40' to 15' for new construction. The hardship is the topography. Ray Adkins seconded the motion.

Mr. McColpin said it would be better not to reference all the cases one by one but to reference BOZA 21-24 through BOZA 21-34 in the motion.

Chairman Brown amended his motion to read as follows:

Jeff Brown made a motion on cases BOZA-21-24 through BOZA-21-34 inclusive, 263 Riverside Avenue to 295 Riverside Avenue to grant the reduction in front setback from 40' to 15' for new construction. The hardship is topography. Ray Adkins seconded the amended motion.

A roll call of the votes was taken. Robert Parks – yes, Debbie Przybysz – no, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

**BOZA-21-35
MIKE PRICE/MAP ENGINEERS
299 RIVERSIDE AVENUE**

Mike Price with MAP Engineers on behalf of Morgan Lane requests a reduction in front setback from 40' to 15', and a reduction in rear setback from 27'-8" to 22' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Derek Blackwood from MAP Engineers addressed the Board. Mr. Blackwood said Mr. Morgan Lane, the property owner and developer was also present. Mr. Blackwood said this is a development of 14 units on Riverside Avenue. The property as a whole is a long and narrow piece of property. This requires multiple retaining walls, odd shaped development, not deep lots to work within the setbacks and ROW requirements from CDOT. There are some easements on the property as well. There are no residential neighbors and this is a secluded isolated site that is topographically challenged. There is a pretty steep hill behind the property and it is buffered by the railroad and woods. This development went through rezoning several months ago. They were rezoned for 12 units per acre. There was no opposition from any neighbors. The approval was for 16 units and 8 curb cuts. He said they reduced the density further by going with 14 units. After the rezoning, they met with staff about the buffer. CDOT said they wanted 5' of extra right-of-way, which further constrained them. This site is topographically challenged because the need for retaining walls. They want to have front loaded townhouses. The units are going to have garages on the base level to help with the parking issues. The bottom level will have a 10-12 foot retaining wall with additional retaining walls in the back to make up the grade for the railroad tracks. It is in keeping with urban character.

Discussion followed. Chairman Jeff Brown wanted to confirm that Lot 2 is going from 25' to 18' and Lot 3 is going from 25' to 22'. Mr. Blackwood said Lot 15 is going from 25' to 22'. Chairman Jeff Brown said for purposes of how we have this broken down he is taking number 23 out of this group since it also has a rear setback component to it. So now we will be discussing cases 24-34.

City Attorney Phil Noblett said in September of last year there was one (1) request from MAP Engineers for RTZ zoning and one would think we would have the correct setback requirements at that time when the request was made. He asked Mr. Blackwood why Mr. Price did not made a request for a PUD in this area.

Mr. Blackwood said if this was a PUD there would be a requirement to have a 25' setback from all exterior boundaries. He said they talked with staff about this. He said you would not be able to have any setback reductions from that 25' PUD boundary.

City Attorney Phil Noblett said his concern is that MAP went to the City Council and the Council gave them what they wanted in September and now 6 months later they are before this Board asking for exceptions. Under Sec. 38-567, there is no question that there are topographical issues. Clearly there is a need for some type of landscaping or walls in the rear of this, which cuts down the ability for them to have usable access to the rear or the property. The City Council has put conditions on this property requiring there be no more than 8 access areas to the road.

Chairman Jeff Brown said he would make a motion on the first of the 10 lots. The votes would apply the same to all 10 cases. As part of the minutes, these votes would be entered in case by case. The language of the motion plus the votes would apply the same to 10 separate cases.

Jeff Brown made a motion on case BOZA-21-35, 299 Riverside Avenue, to grant the reduction in front setback from 40' to 15' and the reduction in rear setback from 25' to 22' for new construction. The hardship is topography. Ray Adkins seconded the motion.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Scott McColpin – yes, Alan Richelson – yes, Debbie Przybysz – no, Robert Parks – yes and Jeff Brown – yes

The motion carried to approve. The case is approved.

OTHER BUSINESS:

None

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.



CHAIRMAN



SECRETARY



DATE



DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
MAY 5, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on May 5, 2021, at 10:00 a.m. Joining were Chairman Jeff Brown presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Debbie Sue Przybysz, Vice Chairman Scott McColpin, Mr. Paul Betbeze, Mr. Robert Parks and Ms. Jackie Thomas. Absent was Mr. Joe Manuel. Also joining were City Attorney Phil Noblett and Ms. Dottie McKinney, Secretary to the Board.

Staff members joining were Mr. Trevis Swilley, Code Enforcement Inspector II, Mr. Randy Ridge, Zoning Inspector II and Ms. Karna Levitt, Landscape Architect. Ms. Lori Roberson, Court Reporter, was taking transcription of the proceedings.

MINUTES:

The April minutes were ready to be approved. Scott McColpin made a motion to approve the minutes as written. Ray Adkins seconded the motion. All in favor, the April minutes were entered as written.

SWEARING IN:

All the applicants, as well as staff were sworn in by Court Reporter Lori Roberson.

INTRODUCTION (RULES AND REGULATIONS):

Chairman Jeff Brown explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdrawn w/o prejudice. If your case is denied, you must wait one (1) year before you can re-apply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Chairman Jeff Brown said next month's meeting would be on Wednesday, June 2, 2021, at 10:00 a.m. Vice Chairman Scott McColpin will conduct that meeting. Chairman Brown said this would be his last Board meeting as the Chairman and a member of this Board. And as reminder, the regular Board elections are in June.

OLD BUSINESS:

**BOZA-21-16
ETHAN COLLIER CONSTRUCTION CO.
3159 CAMBER HILL**

Stacey Gilbreath with Ethan Collier Construction Co., Inc. requests a second kitchen for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this is zoned R-1. He said he received several letters in opposition.

At this point Board Member Alan Richelson recused himself from this case.

Ernie Freistat addressed the Board. Mr. Freistat said Mr. Ethan Collier is sending letters to all homeowners who are parked in the street about the parking. He said he did not know why the neighborhood is attacking this family for parking in the street when they are doing the same thing and not allowing this family to have a second oven in the basement. The parents of his clients may live with them and would need that second oven in the basement. He wanted to state that the HOA says rentals and Air B&B's are not allowed.

Matthew Ballard addressed the Board. Mr. Ballard thanked the Board for letting him speak on behalf of the Patels. He said the majority of the house will be occupied with 3 people with 2 cars. They will have less cars than most of the homeowners. They do not plan on having multiple

families live there. The second kitchen was only designed for their parents in case they needed to live with them but they will all live on one floor.

Discussion followed.

City Attorney Phil Noblett said this is an issue where there is a building code dispute over multiple kitchenettes and not being in a single family structure. He told the Board that they do not get involved in HOA covenants because that is not in the City Code.

Paul Betbeze made a motion to approve case BOZA-21-16 for the second kitchen based on the fact that it shall not be used for a rental unit for either short term or long term use. Ray Adkins seconded the motion.

A roll call of the votes was taken. Ray Adkins – yes, Alan Richelson – yes, Scott McColpin – no, Debbie Przybysz – abstain, Paul Betbeze – yes, Robert Parks – yes, Jackie Thomas – no and Jeff Brown – yes.

The motion carried to approve. The case is approved.

NEW BUSINESS:

**BOZA-21-38
SUSAN MONAHAN
1613 SHADY CIRCLE**

Susan Monahan requests a reduction in right side setback from 5' to 3' for an attached carport.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Jeff Monahan and his wife Susan addressed the Board. Mr. Monahan said they want to use the second drawing on the original application where it shows they moved the carport backwards. They do not want to trim the tree limbs of the big tree in front because it is a large tree but still want to keep the variance for the side setbacks.

Susan Monahan addressed the Board. Ms. Monahan said the neighbor's concern was that they were afraid that their view would be blocked from their porch. Neither plan blocks their neighbor's view. After talking to New Blue Construction, they decided not to cut the tree and move the garage backwards. She said they want to cover the cars from the sap of the tree.

Discussion followed.

City Attorney Phil Noblett said this is a variance under the Code 38-567. It only involves an addition or extension to an existing structure or building, which is what we have here. As long as it is not in conflict with the character of the area you can add a condition that there not be an enclosure of that structure.

Paul Betbeze made a motion to approve case BOZA-21-38 for the reduction in right side setback from 5' to 3' for an attached carport based on the fact that it is no less non-conforming to the current garage or other garage type structures in the neighborhood, as long as it adheres to the site plan submitted, and that the new addition is not enclosed. Ray Adkins seconded the motion.

A roll call of the votes was taken. Jackie Thomas – yes, Robert Parks – yes, Debbie Sue Przybysz – yes, Alan Richelson – yes, Scott McColpin – yes, Paul Betbeze – yes, Ray Adkins – yes and Jeff Brown – yes

All in favor, the motion carried to approve. The case is approved.

**BOZA-21-39
GLEN CRAIG/SSP LUCEY LLC
901 S. HOLTZCLAW AVENUE**

Glen Craig with Craig Design Group on behalf of SSP Lucy LLC requests a landscape variance (1 – Elimination of landscape island for interior bay and 2 – Elimination of landscape island for west end island).

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Kaitlyn Pilgrim with Craig Design Group addressed the Board. Ms. Pilgrim said she was representing the owners. The owners are looking to reuse the existing buildings on site. It will be a mixed use building. She said those buildings are under historic review. They are trying to maintain the existing uses and the outside façade as much as possible. Currently there are two loading doors and they intend to reuse them.

Discussion followed.

Karna Levitt, Landscape Architect addressed the Board. Ms. Levitt said a tree at the end of each row is a requirement. UGC has requirements for additional trees, which have been met and everything else has been met. The applicant is complying with all the requirements. They will take out 3 islands. She would encourage the Board to consider if they would like to request those 3 missing trees put back on the site.

City Attorney Phil Noblett said this is a landscaping requirement in the Zoning Ordinance. This is not a normal variance request.

Jackie Thomas made a motion to approve case BOZA-21-39 for the landscape variance based on the three (3) trees that are going to be removed, be replaced and placed somewhere else on the property. Paul Betbeze seconded the motion.

A roll call of the votes was taken. Ray Adkins – yes, Paul Betbeze – yes, Scott McColpin – yes, Alan Richelson – yes, Debbie Przybysz – yes, Robert Parks – yes, Jackie Thomas - yes and Jeff Brown – yes

All in favor, the motion carried to approve. The case is approved.

OTHER BUSINESS:

Farewell – Chairman Jeff Brown said his goodbyes to everyone and told us all he would miss us.

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.


vice CHAIRMAN


SECRETARY

2-Jun-2021
DATE

6/2/21
DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
JUNE 2, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on June 2, 2021, at 10:00 a.m. Joining were Vice Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Debbie Sue Przybysz, Mr. Paul Betbeze, Mr. Robert Parks and Ms. Jackie Thomas. Absent was Mr. Joe Manuel. Also joining were City Attorney Phil Noblett and Ms. Dottie McKinney, Secretary to the Board.

Staff members joining were Mr. Trevis Swilley, Code Enforcement Inspector II and Mr. Randy Ridge, Zoning Inspector II. Ms. Lori Roberson, Court Reporter, was taking transcription of the proceedings.

MINUTES:

The May minutes were ready to be approved. Ray Adkins made a motion to approve the minutes as written. Jackie Thomas seconded the motion. All in favor, the May minutes are approved as written.

SWEARING IN:

All the applicants, as well as staff were sworn in by Court Reporter Lori Roberson.

INTRODUCTION (RULES AND REGULATIONS):

Vice Chairman Scott McColpin explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdrawn w/o prejudice. If your case is denied, you must wait one (1) year before you can re-apply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Vice Chairman Scott McColpin said next month's meeting will be on Wednesday, July 7, 2021. Elections will be held after today's meeting.

NEW BUSINESS:

**BOZA-21-41
SEAN ENGDahl/ANDREW & ERIN HARRIS
1901 CHAMBERLAIN AVENUE**

Sean Engdahl on behalf of Andrew and Erin Harris requests a reduction in left side setback from 8' to 5' for an accessory structure.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Sean Engdahl addressed the Board. Mr. Engdahl said they needed a little more room because of the lot size, which is why the variance they need is from 8' to 5'. The garage will be larger and will give them less room in the back for parking.

Discussion followed. Inspector Trevis wanted to inform the Board that CDOT said it is less of a hindrance.

Jackie Thomas made a motion to approve case BOZA-21-41 for the reduction in left side setback from 8' to 5' for an accessory structure based on the topography of the property. Paul Betbeze seconded the motion.

Unanimously, the motion carried to approve. The case is approved.

BOZA-21-44
DARRELL TOWNSON
345 KNOLL CREEK CIRCLE

Darrell Townson requests a reduction in rear setback from 25' to 10' for a new expanded deck.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Darrell Townson addressed the Board. Mr. Townson said he was the owner of the property. He said his current deck is 21 years old and it is starting to show wear and tear. They want to tear the old deck off. He said his covenants said they can go to 10'. He said they want to put a roof over part of it and extend the deck of the house.

Discussion followed.

City Attorney Phil Noblett said the authority the Board has is under Code 38-567.

Ray Adkins made a motion to approve case BOZA-21-44 for the reduction in rear setback from 25' to 10' for a new deck expansion based on the fact that it is no less non-conforming and it only applies to the new deck as shown on the site plan. Robert Parks seconded the motion.

Unanimously, the motion carried to approve. The case is approved.

BOZA-21-45
DARIUS GRIFFIN
900 OVERMAN STREET

Darius Griffin requests an interpretation of the regulations for determination of setbacks on irregular shaped lots.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Denise Shaw with Plumb Architecture addressed the Board. Ms. Shaw said she is the architect for the owner, Darius Griffin. They have offset the property line 15', 5' on the sides and 15' on the rear. It reduces the buildable area by 23% by following this interpretation of the plan reviewers. They are asking for this interpretation to be modified. This is in North Chattanooga where Barton and Hixson turn. The precedent they show in the GIS diagrams is intended to represent the other houses that have been built without this consideration. They also submitted a letter from the neighbors in support of this change.

Discussion followed. Ms. Przybysz said she owns a home close to this address but it should not affect her decision here today.

City Attorney Phil Noblett said this is dealing with parts of 3 lots. He said we are dealing with an irregular shaped lot, at least with lot 9. These have been replatted in May of 2021. So there is a question of is this a lot of record. If this is a lot of record those 5' setbacks would work but the replatting may change that. He said the Board needs to see if the Building Official's interpretation is correct and to see if there is some sort of hardship in the shape of this lot. Inspector Swilley said you can make a lot of record larger but not smaller and still keep the lot of record status.

Paul Betbeze made a motion to approve case BOZA-21-45 for the interpretation of the regulation and that staff ruled correctly in their interpretation of the regulations determination for setbacks for an irregular shaped lot. Jackie Thomas seconded the motion.

Discussion followed.

The motion carried to approve with 5 votes in the affirmative. Debbie Przybysz and Alan Richelson opposed the motion. The case is approved.

BOZA-21-46
BRAD MCBRYAR/ROY G. PHILLIPS
1209 BROWNS FERRY ROAD

Brad McBryar on behalf of Roy G. Phillips requests a reduction in left side setback from 5' to 4' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Tracy McBryar and Roy G. Phillips addressed the Board. Mr. McBryar said he represented the owner Roy G. Phillips and also works with Brad McBryar, the applicant. He said they do not want to build a 40' wide 2 story house. The houses in the neighborhood are 60's and 70's style houses. The owner does not care for the shot gun style house.

Discussion followed.

City Attorney Phil Noblett said you have to have a hardship. He said the lot is narrow. If there is an exceptional narrowness in the shape of the property then the Board could regard this. This would apply to the land regardless of who the owner of the property would be.

Ray Adkins made a motion on case BOZA-21-46 to approve the reduction in left side setback from 5' to 4' for new construction. The left side setback only applies to the site plan and not the whole lot. The hardship is the narrowness of the lot. Alan Richelson seconded the lot.

Discussion followed.

The motion carried to approve with 5 votes in the affirmative. Scott McColpin and Debbie Przybysz opposed the motion. The case is approved.

BOZA-21-47
JASON E. RICARDS
3306 WINDSOR COURT

Jason E. Richards requests a reduction in rear setback from 25' to 15' for a garage.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. The applicant was not present.

Scott McColpin made a motion on case BOZA-21-47 to defer this case to our July meeting. Alan Richelson seconded the motion. All in favor, the case is deferred to the next meeting.

OTHER BUSINESS:

ELECTIONS – Ray Adkins nominated Scott McColpin for Chairman. Paul Betbeze seconded the motion. All in favor, the motion was unanimously approved. Scott McColpin nominated Paul Betbeze for Vice Chairman. Ray Adkins seconded the motion. All in favor, the motion was unanimously approved.

DEFERRED CASES - Chairman McColpin said from now on the Board would hear from citizens that took the time to show up in these meetings on a case that is being deferred.

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.



CHAIRMAN



DATE



SECRETARY



DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
JULY 7, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on July 7, 2021, at 10:00 a.m. Joining were Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Ms. Debbie Sue Przybysz, Vice Chairman Paul Betbeze, Mr. Rudolph Foster and Mr. Joe Manuel. Absent were Ms. Jackie Thomas, Mr. Alan Richelson and Mr. Robert Parks. Also joining were City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

Staff members joining were Mr. Trevis Swilley, Code Enforcement Inspector II and Mr. Randy Ridge, Zoning Inspector II. Ms. Lori Roberson, Court Reporter, was taking transcription of the proceedings.

MINUTES:

The June minutes were ready to be approved. Ray Adkins made a motion to approve the minutes as written. Paul Betbeze seconded the motion. All in favor, the June minutes were approved as written.

SWEARING IN:

All the applicants, as well as staff were sworn in by Court Reporter Lori Roberson.

INTRODUCTION (RULES AND REGULATIONS):

Chairman Scott McColpin explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdrawn w/o prejudice. If your case is denied, you must wait one (1) year before you can re-apply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Chairman Scott McColpin said next month's meeting will be on Wednesday, August 4, 2021. He welcomed new Board Rudolph Foster to the Board.

OLD BUSINESS:

**BOZA-21-47
JASON E. RICARDS
3306 WINDSOR COURT**

Jason E. Richards requests a reduction in rear setback from 25' to 15' for a garage.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said the applicant sent a request asking to defer his case to August. Last month the applicant was called away on business at the time of the meeting.

Scott McColpin made a motion to defer case BOZA-21-47 to the August meeting. Ray Adkins seconded the motion. All in favor, the case is deferred to the August meeting.

NEW BUSINESS:

**BOZA-21-49
KAY PORTER
1820 WILCOX BOULEVARD**

Kay Porter requests a reduction in left side setback from 25' to 12' for a new expanded deck.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this was zoned R-1 and is a lot of record.

Kay Porter addressed the Board. Ms. Porter said her daughter wanted to do this project for her since she takes care of her granddaughter. This would be a place to go to for peace and relaxation. She said the contractor who started the project ran off with the money. They later learned that he did not have a contractor's license. Ms. Porter said she is trying to do the right thing. She said the project is not completed because they need to put a roof over it.

Discussion followed.

City Attorney Phil Noblett said if there is an exceptional narrowness in the shape of the lot then the Board could consider this. You could allow the addition if it is no less non-conforming.

Paul Betbeze made a motion on case BOZA-21-49 to approve the reduction in left side yard setback from 25' to 12' for a new expanded deck. The hardship is based on the fact that it is no less non-conforming than other properties in the neighborhood and it only applies to the site plan for the deck. Ray Adkins seconded the motion. The motion carried to approve with 5 votes in the affirmative. Joe Manuel abstained. The case is approved.

**BOZA-21-50
JASON CRAVEN
5681 LEE AVENUE**

Jason Craven on behalf of Watch Tower Investments LLC requests a reduction in rear setback from 25' to 10' and a reduction in front setback from 15' to 10' for new construction.

Opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said a COA was issued a couple of weeks ago. At this point, Ms. Przybysz recused herself from this case. Chairman McColpin said this was indeed approved from the Historic Commission, but conditions were placed on it.

Jason Craven addressed the Board. Mr. Craven said he is the project manager of Watch Tower Investments and one of the principal partners. He said this is a lot of record and said they are requesting 10' in front and rear. It has been vacant for a long time. He said the Historic Commission has approved it in terms of design. The original owner had both parcels and he purchased it and now wants to go back to the way it was platted, and put two houses on it. He said GIS shows 2 addresses.

Discussion followed.

Denise Shaw of 1402 W. 54th Street addressed the Board in opposition. Ms. Shaw said she understands the constraints of this lot. Her only concern is establishing the front yard setback at such a reduced distance from a busy blind corner in this neighborhood and the safety aspect. She said people travel at a very high speed in this neighborhood. Her own suspicion is that this now becomes a more projecting home along the streetscape. She had no concern for the rear setback.

Michael Lawman of 5507 Post Avenue addressed the Board in opposition. Mr. Lawman said he is not opposed in general to development of this property. He said the applicant should have known the limitations when he purchased this property. They knew exactly what they were getting into and this is not a good lot to build on. He said they are trying to build a full house on a half triangle lot. The amount of the variance is significant. He said his neighbors cannot be here today, but they are in agreement with him. Water runoff will be increased. There will not be room to plant anything there to absorb the water. It is on a busy street and it is too close to the road. It will be difficult to have City services there like trash. There have been 2 incidents recently where speeding and drugs were involved and they crashed into the yard. He said just this last Sunday a drunk driver hit the power pole.

Chris Gehard of 1222 W. 55th Street addressed the Board. Mr. Gehard said he is opposed to 2 things. One is a safety concern because there is a bad line of sight there. It is dangerous to get into the alley. And two, the applicant decided to bend and break the rules. It looks like they use this alley from 55th Street. Breaking the rules is his problem.

Inspector Swilley said CDOT has not weighed in on this. Shannon Mikus is out of town.

Jason Craven addressed the Board in rebuttal. He said that these are vacant lots and people dump their trash there. This is engineered as an alleyway and they have no intention of going through this alleyway. He said you can see down the street. There is clear access in terms of

that area. The elevations are higher behind them. The trees will be maintained. He said these are lots of record and are intended to have homes on them.

Discussion followed.

Inspector Ridge said you only lose a lot of record status if you abandon the lot lines.

Paul Betbeze made a motion on case BOZA-21-50 to deny this case for the reduction in rear setback from 25' to 10' and the reduction in front setback from 15' to 10' for new construction, based on the fact that there are safety concerns for moving it forward. Joe Manuel seconded the motion.

Discussion followed.

Five members were in favor of the motion. Debbie Przybysz recused herself. The case is denied.

**BOZA-21-51
JAN GAUTIER
376 WALSH ROAD**

Jan Gautier requests a reduction in left street side setback from 25' to 15' for construction of a carport.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Ronnie Bull addressed the Board. Mr. Bull said he is the builder for this couple. He said the Gautiers are the owners of the property and have owned it since 2013. When they first started the project, the Gautiers were under a time constraint to get this ready for when they retired. Not being a lot of record it would be a 25' setback. Various other properties around that area are under a different zoning. Because of the topo and curve of the road they were trying to squeeze in a carport. It is open all the way around.

Discussion followed.

City Attorney Phil Noblett said according to Sec. 38-567 the Board has to look at the reasons for hardships that it was not caused by any action of the owner.

Mr. Bull addressed the Board again. Mr. Bull said the hardship is the topo and getting a vehicle in there you are limited because of the setbacks. It slopes from Whitehall Road and it is a pretty big hill. They will probably put in a retaining wall because of the side.

Ray Adkins made a motion on Case BOZA-21-51 to approve the request for a reduction in left street side setback from 25' to 15' for construction of a carport. The hardship is topography. Paul Betbeze seconded the motion. All in favor, the motion carried to approve. The case is approved.

OTHER BUSINESS:

None

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.


CHAIRMAN


DATE


SECRETARY


DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
AUGUST 4, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on August 4, 2021, at 10:00 a.m. Joining were Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Debbie Sue Przybysz, Vice Chairman Paul Betbeze, Mr. Rudolph Foster and Mr. Joe Manuel. Mr. Robert Parks and Ms. Jackie Thomas. Also joining were City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

Staff members joining were Mr. Trevis Swilley, Code Enforcement Inspector II and Mr. Randy Ridge, Zoning Inspector II, Mr. Caleb Fisher, Code Enforcement Inspector II, Mr. Shannon Mikus, Transportation Designer. Ms. Lori Roberson, Court Reporter, was taking transcription of the proceedings.

MINUTES:

The July minutes were ready to be approved. Ray Adkins made a motion to approve the minutes as written. Paul Betbeze seconded the motion. All in favor, the July minutes were approved as written.

SWEARING IN:

All the applicants, as well as staff were sworn in by Court Reporter Lori Roberson.

INTRODUCTION (RULES AND REGULATIONS):

Chairman Scott McColpin explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdrawn w/o prejudice. If your case is denied, you must wait one (1) year before you can re-apply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Chairman Scott McColpin said next month's meeting will be on Wednesday, September 1, 2021. He made an announcement on how social media would not be influencing this Board. He said from now on, staff needs the addresses of the ones who are in opposition.

OLD BUSINESS:

**BOZA-21-47
JASON E. RICARDS
3306 WINDSOR COURT**

Jason E. Richards requests a reduction in rear setback from 25' to 15' for a garage.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said it is zoned R-1.

Jason E. Richards addressed the Board. Mr. Richards apologized to the Board for making this go into old business. He said he is the new owner of the house and said you would be not able to see the structure.

Discussion followed.

City Attorney Phil Noblett said according to Sec. 38-567 there has to be hardships in order to grant a variance.

Jackie Thomas made a motion to deny case BOZA-21-47 based on the fact that there is no hardship. Alan Richelson seconded the motion. All in favor, the motion carried to deny. The case is denied.

NEW BUSINESS:

**BOZA-21-48
EDA WALLDORF
807 SPEARS AVENUE**

Eda Walldorf requests a reduction in right side setback from 5' to 0' and a reduction in rear setback from 25' to 14' for new construction.

No opposition was present.

Chairman McColpin said the applicant requested to withdraw her case.

Paul Betbeze made a motion to withdraw without prejudice case BOZA-21-48. Alan Richelson seconded the motion. All in favor, the motion carried to withdraw. The case is withdrawn without prejudice.

**BOZA-21-52
VAN BUNCH/HARRY SULLIVAN BUNCH
1006 HANOVER STREET**

Van Bunch on behalf of Harry Sullivan Bunch and Corinne E. Giagnorio requests relief from Section 38-504 for an accessory structure (pool) in the front yard.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said it is a lot of record and zoned R-2.

Van Bunch addressed the Board. Mr. Bunch said this duplex has been there since 1978. The owner of the duplex approached Mr. Bunch to buy the property. So he bought the property to improve the neighborhood. He took the duplex down. He said the backyard is literally a hole and all of the drainage goes into the backyard.

Matt Whitaker addressed the Board. Mr. Whitaker said this is a bowl where everything around it drains in there. According to Health Code you have to drain away from the pool. They cannot put the pool behind the house because of the drainage. The pool is going in front behind a screening hedge and will not be visible to the road. The property lines are not perpendicular to the street.

Discussion followed.

City Attorney Phil Noblett said the three (3) lots combined into one (1) are not on a straight line. There are topography issues that could be considered as hardships. The design is by the property owner. This is an R-2 zone and that is one of the reasons for the limitations. He said there are noise issues and access that have to be considered.

Paul Betbeze made a motion to approve case BOZA-21-52 for the request based on the hardships of topography and irregular lot shape, subject to the screening and site plan submitted. Ray Adkins seconded the motion. Joe Manuel opposed the motion. The motion carried to approve. The case is approved.

**BOZA-21-53
DAVE FIDATI/WISE PROPERTIES-TN LLC
301 W. 25TH STREET**

Dave Fidati on behalf of Wise Properties-TN LLC requests an interpretation of the regulation for the definition of manufacturing.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this was zoned UGC.

Bill Parker and Leonardo Vieira addressed the Board. Mr. Parker said he was going to speak for Mr. Vieira, the owner because his English was not good. Mr. Parker said they are trying to classify him as manufacturing and they have always been fabrication. They are not cutting large blocks or crushing blocks. He said these things have been created and they buy them that way to produce countertops. There will not be additional noise. They work normal business hours.

Everything is done inside the building. It is all housed inside with the doors closed. There is no additional traffic for what they do. As they grow, they will house 10-15 employees. They have a large contract with Lowes. He said they have a good business with Chattanooga. Mr. Parker said the company told Mr. Leonard that he did not need a permit. From his perspective he followed all the rules. They had a lot of material to come in all at once but it will be moved inside and the materials will be stored inside. Mr. Viera does not want to be in violation and wants to conform to the rules.

Discussion followed.

City Attorney Phil Noblett said he has been looking for definitions in the Code. Under Section 38-563 the Board is supposed to hear from the Official on zoning cases. He said the Board could agree to vote to stay with a time limit.

Debbie Sue Przybysz made a motion to approve case BOZA-21-53 for a temporary use permit for 6 months until further guidance is provided by City Council on the definition of manufacturing. No one seconded so Ms. Przybysz withdrew her motion.

Scott McColpin made a motion on case BOZA-21-53 that it is the interpretation of this Board that the cutting of granite countertops is defined as commercial for this purpose. Paul Betbeze seconded the motion.

Discussion followed.

Joe Manuel abstained. The motion carried to approve. The case is approved.

**BOZA-21-54
EDA WALLDORF
1113 HIGHLAND DRIVE**

Eda Walldorf requests a reduction in front setback from 25' to 10' for new construction.

Opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this was zoned R-1.

Eda Walldorf addressed the Board. Ms. Walldorf said she is the owner of the lot along with her husband. She would like to ask for this variance because there are topographical conditions that were not created by them. They would avoid unsightly retaining walls, reduce land disturbing, preserve the slope vegetation and reduce erosion of this lot for her personal dwelling. There is other precedence in this neighborhood. She said this used to be adjoining with a property above it and it was subdivided and that is why the setbacks have been enlarged. This is not an uncommon occurrence in this neighborhood. They purchased the lot in 2016.

Discussion followed.

Paul Brewster addressed the Board. Mr. Brewster said he is not really in opposition just yet. They are homeowners at 1109 Highland Drive. Their concern is that the steep slope goes up all to the way to the driveway. Those trees are stabilization and there are 2 lots behind that.

City Attorney Phil Noblett said there is a lot that has not been developed and could have been a lot of record but now no longer is a lot of record. It is in the R-1 zone.

Paul Betbeze made a motion to deny Case BOZA-21-54 based on the fact that it would not be consistent with the neighborhood and there is not a hardship. Rudolph Foster seconded the motion. All in favor, the motion carried to deny. The case is denied.

Ms. Walldorf said she wondered if the Board would consider reducing it to 15'. Mr. Richelson said it is not a negotiation. Nothing would prohibit her from applying for a different variance.

**BOZA-21-55
COLIN HEENAN
429 ZIEGLER STREET**

Colin Heenan requests a reduction in front setback from 25' to 23.8' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this was zoned R-1.

Colin Heenan and Ray Boswell addressed the Board. Mr. Heenan said originally the house was designed to fit onto this property. After this was done, they had a survey done and they found they were not in compliance with the setbacks and that is why they are asking for a setback. The foundation and slab was already poured and it is a monolithic foundation. The house cannot be moved back. The land will be disturbed greatly by removing the slab.

Discussion followed.

Ray Adkins made a motion to approve Case BOZA-21-55. The hardship is that it is no less non-conforming. Joe Manuel seconded the motion. All in favor, the motion carried to approve. The case is approved.

BOZA-21-57
JAMES SHERRELL/WELLINGTON INVESTMENT
1604 FAGAN STREET

James Sherrell on behalf of Wellington Investment Properties LLC requests a reduction in front setback from 15' to 0', a reduction in rear yard setback from 25' to 15', and a special permit for a duplex on a lot of record.

Opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this was zoned R-3 and is a lot of record. He said he received a letter in support of this request.

David Celeste addressed the Board. Mr. Celeste is hoping to mimic the townhomes across the street. The lot it is an unbuildable lot. The lot comes in at 3, 200 square feet.

Discussion followed.

Paul Brown addressed the Board. Mr. Brown said he lives in the brown house behind this. He said this lot does not meet the requirement for what he is trying to build on that lot. He is trying to build a duplex. There is a parking problem in that area.

Robert Parks made a motion to approve Case BOZA-21-57. The hardship is that it is a rectangular shape. Ray Adkins seconded the motion. Two voted in favor of the motion. Seven voted to deny the motion. Another motion was made at this time.

Scott McColpin made a motion to deny Case BOZA-21-57 because there is no real hardship other than the lot is too small to build a duplex. Alan Richelson seconded the motion. Ray Adkins and Robert Parks opposed the motion. The motion carried to deny. The case is denied.

BOZA-21-58
GLEN CRAIG/NICHOLAS & APRIL GOEBELER
2809 MILITARY ROAD

Glen Craig with Craig Design Group on behalf of Nicholas & April Goebeler requests relief from Sec. 38-504 for an accessory structure (pool) in the front yard.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Glen Craig, Landscape Architect representing the owners addressed the Board. Mr. Craig said he had additional information he passed to the Board members. He said it is a beautiful lot and extremely steep and very rocky. During this process the rear is now being considered being the front so therefore that created the need for a variance in this case.

April Goebeler addressed the Board. Ms. Goebeler said she wanted to answer any owner questions.

Discussion followed.

Debbie Sue Przybysz made a motion to approve case BOZA-21-58 for relief from Sec. 38-504 for accessory structure (pool) in the front yard with the hardships being topography and an irregular shaped lot. Paul Betbeze seconded the motion. Joe Manuel abstained. Eight members voted in favor of the motion. The case is approved.

BOZA-21-59
JAMES WARDEN
1800 KNICKERBOCKER AVENUE

James Warden requests a reduction in front setback from 25' to 10' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said this is zoned R-1.

James & Tuba Warden addressed the Board. Mrs. Warden said they built this lot 2 months ago. They did not think getting a setback would be an issue because they have a challenge and are trying to do something that will look good for the neighborhood.

James Warden addressed the Board. Mr. Warden said the topography is steep. They want the house situated further up and not have a retaining wall. He said they have talked to their immediate neighbors and they do not have a problem with this.

Discussion followed.

Mr. Richelson asked the Wardens if they could come back with a better site plan and proof of the rocks hardship.

Paul Betbeze made a motion to deny Case BOZA-21-59 for the reduction in front setback from 25' to 10' for new construction based on the fact that there is no viable site plan submitted and there is no real hardship. Joe Manuel seconded the motion. All in favor, the motion carried to deny. The case is denied.

BOZA-21-60
ALLEN JONES/WELLINGTON INVESTMENT
2501 E. 12th STREET

Allen Jones with ASA Engineering, Inc. on behalf of Wellington Investment Properties LLC requests a reduction in front setback from 25' to 15' for new construction.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said it is zoned RT-1.

Micah Duffey with ASA Engineering, Inc. addressed the Board. Mr. Duffey said they want to get parking, driveway and storm utilities they will need for 6 unit townhomes. They are maintaining the 25' on Peach Street where most of the residential is at. They will be fronting E. 12th Street. He said it was rezoned to RT-1 a long time ago.

Discussion followed.

City Attorney Phil Noblett said the Board has to hear a hardship and the hardship cannot be brought on by the action of the developer or the owner.

Jackie Thomas made a motion to deny case BOZA-21-60 because there is no hardship. Joe Manuel seconded the motion. All in favor, the motion carried to deny. The case is denied.

OTHER BUSINESS:

None

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.


CHAIRMAN

1-Sep-2021
DATE


SECRETARY

9/1/21
DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
SEPTEMBER 1, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on September 1, 2021, at 10:00 a.m. Joining were Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Vice Chairman Paul Betbeze, Mr. Rudolph Foster and Mr. Joe Manuel. Mr. Robert Parks and Ms. Jackie Thomas. Ms. Debbie Sue Przybysz was no longer on the Board. Also joining were City Attorney Phil Noblett, City Staff Attorney Rob Robinson and Ms. Dottie Cannon, Secretary to the Board.

Staff members joining were Mr. Trevis Swilley, Code Enforcement Inspector II and Mr. Randy Ridge, Zoning Inspector II, Mr. Brandon Sutton, Transportation Design Manager and Ms. Karna Levitt, Landscape Architect. Ms. Lori Roberson, Court Reporter, was taking transcription of the proceedings.

MINUTES:

The August minutes were ready to be approved. Ray Adkins made a motion to approve the minutes as written. Robert Parks seconded the motion. All in favor, the August minutes were approved as written.

SWEARING IN:

All the applicants, as well as staff were sworn in by Court Reporter Lori Roberson.

INTRODUCTION (RULES AND REGULATIONS):

Chairman Scott McColpin explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdrawn w/o prejudice. If your case is denied, you must wait one (1) year before you can reapply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Chairman Scott McColpin said next month's meeting will be on Wednesday, October 6, 2021. He said there would be a short ethics training immediately following the meeting.

NEW BUSINESS:

**BOZA-21-61
CASEY JOHNSON
2818 E. 48th STREET**

Casey Johnson requests a reduction in front setback from 25' to 0' for a loading dock.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Casey Johnson, II addressed the Board. Mr. Johnson said he and his father are the owners of this property. The dock project is for the tenant they are trying to accommodate. With the current setup, he is having trouble accessing in and out. The trucks were on the main road. The attempt is to get the trucks out of the road, out of the way and have easier access with pallets and carpet rolls for the current tenant.

Discussion followed. Mr. Manuel said if screening is an issue, it might be better to defer this case to next month.

Mr. Johnson said it was ok to defer his case to the October meeting.

Scott McColpin made a motion to defer case BOZA-21-61 to the October meeting. Alan Richelson seconded the motion. All in favor, the motion was unanimously approved. The case is deferred to the October meeting.

BOZA-21-62
RYAN WILLIAMS
6007 HIGHWAY 153

Ryan Williams requests an extension for a special permit for an assisted living facility.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation. He said it is zoned C-2.

Donna Shepherd with AD Engineering addressed the Board. Ms. Shepherd said this project already received a special permit but because of COVID the project was delayed in starting construction. They knew they had 2 years from the date of the special permit to start construction but they were afraid the special permit would expire. The original application had 67 spaces and they reduced it down to 50 spaces. They reduced the parking because this is mostly a memory care and not an assisted living and they did not need the additional parking.

Discussion followed.

City Attorney Phil Noblett said we are just extending the special permit that was approved in 2019. The time period definitely needs to be established under the Building Codes and requirements, and we need to talk about any other extensions that we need to grant. Ms. Shepherd said the materials are difficult to get right now. They plan on starting construction as soon as they can. She would like to request the 2 full years.

Joe Manuel made a motion to approve case BOZA-21-62 for the request and issue a new special permit for an assisted living/memory facility based on the site plan and checklist submitted. Paul Betbeze seconded the motion. All in favor, the motion unanimously was approved. The case is approved.

BOZA-21-63
BENJAMIN KAUFMANN
1519 MCCALLIE AVENUE

Benjamin Kaufmann requests a reduction in the required parking count from 55 spaces to 12 spaces for a restaurant.

No opposition was present.

Inspector Trevis Swilley briefed the Board of the variance in his PowerPoint presentation.

Craig Peavy, Architect for the project, addressed the Board. Mr. Peavy said this is an existing building, site and existing condition. The new owner has asked them to put in a restaurant and bar while renovating the building. The back half of the lot is used by EPB for their power poles and materials. Mr. Peavy said they do not have room for the required 62 parking spaces and can only fit 12 parking spaces. Mr. Peavy said his proposal is that the street could handle the load.

Discussion followed.

After the discussion, Mr. Peavy said he would like to withdraw his request.

Robert Parks made a motion to withdraw without prejudice case BOZA-21-63. Joe Manuel seconded the motion. All in favor, the motion unanimously was approved. The case is withdrawn without prejudice.

OTHER BUSINESS:

After the meeting, City Attorney Phil Noblett presented an Ethics training to the Board members.

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.

Scott M. ...
CHAIRMAN

10/27/2021
DATE

Dottie Cannon
SECRETARY

10/27/21
DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
OCTOBER 6, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on October 6, 2021, at 10:00 a.m. Joining were Vice Chairman Paul Betbeze presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Susan Gilmore, Mr. Rudolph Foster, Mr. Robert Parks and Ms. Jackie Thomas. Absent were Chairman Scott McColpin and Mr. Joe Manuel. Also joining were City Staff Attorney Joseph Kelly and Ms. Dottie Cannon, Secretary to the Board.

Staff members joining were Mr. Randy Ridge, Zoning Inspector II, Ms. Karna Levitt, Landscape Architect and Mr. Michael Rose, Application Analyst. Ms. Lori Roberson, Court Reporter, was taking transcription of the proceedings.

MINUTES:

The September minutes were ready to be approved. Ray Adkins made a motion to approve the minutes as written. Alan Richelson seconded the motion. All in favor, the September minutes were approved as written.

SWEARING IN:

All the applicants, as well as staff were sworn in by Court Reporter Lori Roberson.

INTRODUCTION (RULES AND REGULATIONS):

Vice Chairman Paul Betbeze explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdrawn w/o prejudice. If your case is denied, you must wait one (1) year before you can reapply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Vice Chairman Paul Betbeze said next month's meeting will be on Wednesday, November 3, 2021.

OLD BUSINESS:

**BOZA-21-61
CASEY JOHNSON
2818 E. 48th STREET**

Casey Johnson requests a reduction in front setback from 25' to 0' for a loading dock.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation.

Casey Johnson II addressed the Board. Mr. Johnson said they are trying to put in a loading dock. Where they unload is in the road and they are trying to get the trucks off the road. They have an unusual lot size. They also have a temporary use agreement between the property owner and CDOT. They plan to use the trellis as a landscaping screening. They want to move the fire hydrant back and extend the sidewalk so that it does not interfere any time down the road.

Karna Levitt, Landscape Architect, addressed the Board. Ms. Levitt said Mr. Johnson has proposed a screening be constructed. Her request is that the Board gives the authority to her to review the plant species and plant spacing.

City Staff Attorney Joseph Kelly said this looks like it has been signed off by CDOT with these revised plan. The motion should address the setback requirement, and landscape requirements, conditioned to allow them not to have the trees and the screening requirements conditioned upon submitting the plan screening subject to a final approval of the plant species and plant spacing.

Discussion followed.

Alan Richelson made a motion to approve case BOZA-21-61 or the reduction in front setback from 25' to 0' for the loading dock. The hardship is unusual existing conditions. Also grant the landscape variance subject to the acceptance from the Landscape Architect for the approval of the conditions that she requires, and relief from the tree requirement that will coordinate with the landscape conditions. Ray Adkins seconded the motion. All in favor, the motion was unanimously approved. The case is approved.

NEW BUSINESS:

**BOZA-21-64
JAY CAUGHMAN/TIMOTHY & TRACEY PARKES
3733 KINGS ROAD**

Jay Caughman on behalf of Timothy and Tracey Parkes requests relief from Sec. 38-504 for an accessory structure in the front yard.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. Sec. 38-504 was referenced.

Michael Harney addressed the Board. Mr. Harney said he was there on behalf of Jay Caughman. He said the request was to put a garage on the front part of the property based on the lot and where the lake is. The owners need to have room for a shop for their daughter to put her art studio. The Parkes, the owners own the property to the right.

City Staff Attorney Joseph Kelly said the Board has allowed this if it fits in the overall design and structure of what is already there. He said it can probably qualify under pre-existing condition.

Robert Parks made a motion to approve case BOZA-21-64 for the request. Ray Adkins seconded the motion. All in favor, the motion was unanimously approved. The case is approved.

**BOZA-21-65
JOSEPH GRUSS/MARIAN MOSEL
4306 SENECA AVENUE**

Joseph Gruss on behalf of Marian Mosel requests relief from Sec. 38-504 for an accessory structure in the front yard and a setback variance.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation.

Marian Mosel, the homeowner, addressed the Board. Ms. Mosel said this house was built a couple of years ago and she was not able to afford to build the garage at that time but now she is ready. A garage was there in the 50's or 60's and was burned down. She would like a 1 car garage, 1 story 13 x 18. She wants to use it as a shed and garage.

Joseph Gruss, the contractor, addressed the Board. Mr. Gruss said they want to go back to the original footprint. He said there are already 3 of the garages the same way on the same road.

Discussion followed.

Shannon Mikus from Transportation addressed the Board. Mr. Mikus said the ROW is the setback. The walls and garages are at the property line. There would be space 5 or 6 feet from the edge of the street and property line. There is no restriction in Code from residents putting a garage at the property line unless there is a housing area that says you have to have a setback.

City Staff Attorney Joseph Kelly said she had approval for the garage from the Historic Commission.

Alan Richelson made a motion to deny case BOZA-21-65 for the request. Rudolph Foster seconded the motion.

Discussion followed. After discussion, Mr. Richelson withdrew his motion provided that convex mirrors be used. He said they could put the mirrors toward the front towards the eaves.

Alan Richelson made another motion to approve case BOZA-21-65 for the request due to the topography under the condition that the applicant erect line of sight convex mirrors so that cars can be seen backing out of the garage. Paul Betbeze seconded the motion. All in favor, the motion was unanimously approved. The case is approved.

BOZA-21-66
LANA SAUCEMAN
1325 MACKEY BRANCH DRIVE

Lana Sauceman requests a special permit for an animal grooming/boarding facility.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation.

Lana Sauceman addressed the Board. Ms. Sauceman said she and her husband own the property. She currently also owns a place less than a mile down the road. They want to expand with a boarding and self-serve dog wash and a small retail area on one end of the business. She would like permission to build a fence running along the back side of the property.

City Staff Attorney Joseph Kelly said we are approving the grooming facility and also requesting a setback variance as shown.

Inspector Ridge said the applicant has conditions that she has to meet. She is asking to diminish the 100' buffer requirement.

Ms. Sauceman said from the property shed there is 12 or 14' wide. There is a metal shed that she considers a metal buffer. She will only be able to house 20 dogs at a time and 5 dogs will go out at a time.

Discussion followed.

Jackie Thomas made a motion to approve case BOZA-21-66 for the special permit for an animal grooming/boarding facility based on the information given subject to the checklist submitted, and to also approve the fencing and all that is required. Rudolph Foster seconded the motion. All in favor, the motion unanimously was approved. The case is approved.

BOZA-21-67
SUANNE MURPHY
87 S. CREST ROAD

Suanne Murphy requests relief from Sec. 38-504 for an accessory structure in the front yard.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said this is already existing and non-conforming. The request is to demolish this structure and rebuild.

Suanne Nan Murphy addressed the Board. Ms. Murphy said she is the owner of the property and also a registered nurse at Erlanger. She said this structure is very old and she would like to transition to a home office where she can continue to be an active member of the community. She takes care of her dad 7 days a week. Ms. Murphy said her neighbors approve of this request.

Discussion followed.

David VanDerhoof, the builder, addressed the Board. Mr. VanDerhoof said the new structure will be 25' deep by 35' deep. It will also have an attached carport, one story structure. This current one is about 2 or 3 feet from the left hand property line.

Jackie Thomas made a motion to approve case BOZA-21-67 for the request based on the topography being the hardship. Robert Parks seconded the motion. All in favor, the motion was unanimously approved. The case is approved.

OTHER BUSINESS:

None

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.



CHAIRMAN



DATE



SECRETARY



DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
NOVEMBER 3, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on November 3, 2021, at 10:00 a.m. Joining were Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Susan Gilmore, Vice Chairman Paul Betbeze, Mr. Rudolph Foster, Mr. Joe Manuel, Mr. Robert Parks and Ms. Jackie Thomas. Also joining were City Staff Attorney Joseph Kelly and Ms. Dottie Cannon, Secretary to the Board.

Staff member joining was Mr. Randy Ridge, Zoning Inspector II. Ms. Lori Roberson, Court Reporter, was present and taking transcription of the proceedings.

MINUTES:

The October minutes were ready to be approved. Alan Richelson made a motion to approve the minutes as written. Ray Adkins seconded the motion. All in favor, the October minutes were approved as written with the amendment to include Ms. Susan Gilmore being present at the meeting.

SWEARING IN:

All the applicants, as well as staff were sworn in by Court Reporter Lori Roberson.

INTRODUCTION (RULES AND REGULATIONS):

Chairman Scott McColpin explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdrawn w/o prejudice. If your case is denied, you must wait one (1) year before you can reapply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Chairman Scott McColpin said next month's meeting will be on Wednesday, December 1, 2021.

NEW BUSINESS:

**BOZA-21-71
ROBERT FRANKLIN/CIL ENTERPRISES LLC
3201 BROAD STREET**

Robert Franklin with Franklin Architects on behalf of CIL Enterprises LLC requests a parking variance (reduction in required 112 spaces to 32 spaces).

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance by saying the applicant wanted to withdraw his request without prejudice.

Ray Adkins made a motion to withdraw without prejudice case BOZA-21-71. Alan Richelson seconded the motion. All in favor, the motion was withdrawn without prejudice. The case is withdrawn without prejudice.

**BOZA-21-72
DARREL FRYE
26 HUNT AVENUE**

Darrel Frye requests a special permit for a daycare facility.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation.

Darrel Frye addressed the Board. Mr. Frye said he and his wife have been in the childcare business for some time. Back in 2009 they had a fire and their business has been closed down since that time. He said this house has been a child care center before.

Discussion followed.

Alan Richelson made a motion to approve case BOZA-21-72 for the special permit for a daycare facility subject to the provisions in the checklist and that operators encourage their parents and guardians to exercise safety. Ray Adkins seconded the motion. All in favor, the motion was unanimously approved. The case is approved.

**BOZA-21-73
NICK DESHA/ALEX TAYLOR WILKEY, JR.
1407 MISSISSIPPI AVENUE**

Nick DeSha on behalf of Alex Taylor Wilkey, Jr. requests a reduction in left side setback from 5' to 2.5' for an addition.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation.

Nick DeSha, owner of Sawyer Construction, addressed the Board. Mr. DeSha said the clients have bought this house from Mr. Taylor Wilkey, Jr. and the remodeling had already been started. They would like to do an addition with the same footprint within 2.5' on the left side. They are just trying to add square footage to make it more desirable. They had a survey done as well.

Discussion followed.

Wayne Robertson of 704 Barton Avenue, addressed the Board. Mr. Robertson said he had a question and was not in opposition. He said his driveway is right across from the garage and he just wants to make sure they would not extend the garage out to the road.

Sarah Brogdon and Evan Houser addressed the Board. Ms. Brogdon said they purchased the house and hired Nick DeSha as a general contractor. They are following where that deck was with the addition. They will be improving the garage but the footprint will remain exactly the same.

City Staff Attorney Joseph Kelly said it looks to be no less non-conforming than the previous line along that side. The irregular shape of the lot can also be a basis for this request.

Paul Betbeze made to approve case BOZA-21-73 for the reduction in left side setback from 5' to 2.5' for an addition based on the fact that it is no less non-conforming than the existing structure and as long as it adheres to the site plan submitted. Robert Parks seconded the motion. Joe Manuel opposed the motion. The motion carried to approve. The case is approved.

**BOZA-21-74
WILLIAM ALLEN/FRAZ & ANNA COOK
405 ZIEGLER STREET**

William Allen on behalf of Frank & Anna Cook requests an increase in front setback from 15' to 24' and a reduction in rear setback from 25' to 15' for new construction.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation.

William Allen addressed the Board. Mr. Allen said he is in the process of purchasing the lot from Mr. Franz Cook. He is not developing it to resale and he and his wife will live there. He is shifting the house to the back of the lot.

Franz Cook addressed the Board. Mr. Cook said he owns the property and the one behind it and the adjacent to it. He is in agreement with the application that has been filed. He did a real estate agreement with Mr. Allen as well.

Discussion followed.

City Staff Attorney Joseph Kelly said the hardship here is in the clause in City Code that describes the hardship as other extraordinary circumstances and that granting it would be in

keeping with the overall character of the neighborhood based on the fact that the purpose of this request would keep the property in line with the existing structures in the neighborhood. This could qualify under that provision.

Ray Adkins made a motion to approve case BOZA-21-74 for the increase in front setback from 15' to 24' and a reduction in rear setback from 25' to 15' for new construction based on other extenuating circumstances that the granting would result in conformity within an existing neighborhood. Alan Richelson seconded the motion. Joe Manuel, Scott McColpin and Jackie Thomas opposed the motion. The motion carried to approve. The case is approved.

**BOZA-21-75
DAN KRAL/SDY HOLDINGS LLC
2220 E. 23RD STREET**

Dan Kral on behalf of SDY Holdings LLC requests a landscape variance.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation.

Dan Kral addressed the Board. Mr. Kral said they are general contractors for the project. They have undertaken an expansion to the facility as the business grows. The expansion has triggered street trees to be put in into an existing employee parking area as well as an existing customer parking area. They are in the process of reconfiguring an entrance to the facility and as part of that in lieu of the trees at the street, which would create a safety hazard, they have taken on installing a landscape buffer at the front of the building of the new addition. And that buffer would have 17 shrubs. They want to avoid installing the trees on the front of the property to restrict view shed. This is a heavy towing recovery business. The view shed does not allow for the drivers to see properly. They want relief from the tree landscaping requirement so they can maintain that view shed. That have had accidents because drivers cannot see the guys pulling out. The addition is on the rear of the building.

Discussion followed.

Robert Parks made a motion to approve case BOZA-21-75 for the landscape variance based on the existing conditions of trees being a safety hazard. Jackie Thomas seconded the motion.

Discussion followed.

Joe Manuel abstained, 1 opposed the motion. The motion carried to approve. The case is approved.

OTHER BUSINESS:

Chairman McColpin asked City Staff Attorney Joe Kelly to give us a training on what constitutes a hardship after the December 1, 2021 meeting.

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.


CHAIRMAN

1-Dec-2021
DATE


SECRETARY

12/1/21
DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
DECEMBER 1, 2021**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on December 1, 2021, at 10:00 a.m. Joining were Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Susan Gilmore, Vice Chairman Paul Betbeze, Mr. Rudolph Foster, Mr. Joe Manuel, Mr. Robert Parks and Ms. Jackie Thomas. Also joining were Deputy City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

Staff members joining were Mr. Randy Ridge, Zoning Inspector II, Mr. Shannon Mikus, Transportation Designer and Mr. Caleb Fisher, Code Enforcement Inspector. Ms. Lori Roberson, Court Reporter, was present and took transcription of the proceedings.

MINUTES:

The November minutes were ready to be approved. Ray Adkins made a motion to approve the minutes as written. Robert Parks seconded the motion. All in favor, the November minutes were approved as written.

SWEARING IN:

All the applicants, as well as staff were sworn in by Court Reporter Lori Roberson.

INTRODUCTION (RULES AND REGULATIONS):

Chairman Scott McColpin explained the rules and procedures to the applicants for addressing the Board. He said if it looks like your request is going to be denied, you have two (2) options: (1) before a vote on a motion is made on your case, you may request that the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdrawn w/o prejudice. If your case is denied, you must wait one (1) year before you can reapply to this Board for the same request. If you want to appeal you must appeal to Chancery Court, not the City Council. Finally, it takes the majority of the Board present to approve a motion. This is a 9 member Board and the majority or a quorum of the Board would be 5 members. In the event of missing Board members, decisions are made by the majority of those present.

ANNOUNCEMENTS: Chairman Scott McColpin said next month's meeting will be held on Wednesday, January 5, 2022.

NEW BUSINESS:

**BOZA-21-76
LAHONA SMITH
2315 CENTER STREET**

LaHona Smith requests a special permit for a daycare facility.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his Powerpoint presentation.

LaHona Smith addressed the Board. Ms. Smith said she is in the process of opening a daycare facility with 26 kids and 5 employees. She is trying to get everything approved so she can open the first of the year.

Discussion followed.

Alan Richelson made a motion to approve case BOZA-21-76 for a daycare subject to the checklist presented. Rudolph Foster seconded the motion. All in favor, the motion was approved. The case is approved.

BOZA-21-77
JOSEPH BURKE
398 N. SEMINOLE DRIVE

Joseph Burke requests a reduction in rear setback from 25' to 7.5' to build an addition.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation.

Joe Burke addressed the Board. Mr. Burke said he is the owner of Brown Dog Construction. He said his clients want to expand their home. The lot is unusually shaped and even though it is a large lot, the house is tucked over to one side of the lot. The new addition will line up with the existing house where the property line is now..

Discussion followed.

Jackie Thomas made a motion to approve case BOZA-21-77 for the reduction in rear setback from 25' to 7.5' to build an addition based on the unusual shape of the lot and that it is no less non-conforming. Paul Betbeze seconded the motion.

Chairman McColpin said his office prepared the quitclaim deed that transferred this property into John and Elizabeth Diener, but that it should not affect his vote here today.

Joe Manuel abstained. The motion carried to approve. The case is approved.

BOZA-21-78
ALLEN JONES/BRainerd BAPTIST CHURCH
300 BROOKFIELD AVENUE

Allen Jones with ASA Engineering, Inc. on behalf of Brainerd Baptist Church requests a 0' setback at the property line for a new canopy.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation.

Allen Jones with ASA Engineering, Inc. addressed the Board. Mr. Jones said he was representing both Brainerd Baptist Church and Brainerd Baptist School. He said the hardship was existing conditions and the type is parking. The school is in the process of making renovations to the facility. The drop off canopy where all the students are being dropped off in the morning is being looked at now. A few weeks ago the head of the school met with the Neighborhood Association and they did not have any concerns or issues with the proposed improvements. Councilwoman Carol Berz is also in support of this as well. Mr. Jones said his clients want to bump the canopy columns to the property line for a zero setback so they can more efficiently get students dropped off. They want to improve the sidewalk for pedestrians and extend the public sidewalk and rework the ADA ramp from across the street. The hardship is the existing building in its relationship to the ROW. It is a legal non-conforming use.

Mr. Richelson said he lives about 3 blocks from this property and attended the neighborhood meetings to answer procedural questions about what this Board would be doing and what the neighbors had to say, but that will not affect his decision here today.

Discussion followed.

Jeffrey Sikes, President of ASA Engineering, Inc. addressed the Board. Mr. Sikes said the canopy elevation has gone up.

Sean Cocoran addressed the Board. Mr. Corcoran said the canopy will be raised 15 feet to allow larger vehicles. A bus cannot go under the canopy now.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said the discussion currently is about plans that have not been reviewed.

Deputy City Attorney Phil Noblett said under Sec. 38-567 of the Ordinance before a variance can be granted the Board has to find a hardship. He went on to briefly explain the hardship requirements and powers of the Board.

Alan Richelson made a motion to approve case BOZA-21-78 for a 0' setback at the property line for a new canopy. The hardship is the strict application of the Zoning Ordinance would result in the particular and practical difficulties or undue hardship upon the owner. The way the traffic canopy pattern is now is hazardous to the children. This is a vast improvement traffic wise and aesthetically. This zero setback only applies to the canopy area and not the entire property. Ray Adkins seconded the motion

Discussion followed.

All in favor, the motion unanimously was approved. Therefore the case is approved.

**BOZA-21-79
WYATT MCVAY
1708 GOLF STREET**

Wyatt McVay requests a reduction in left side yard setback from 10' to 4' to build a porch.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation.

Wyatt McVay addressed the Board. Mr. McVay said they would like to take the fireplace off and have an open air porch with sliding glass windows. The intent is to create an open space which they currently do not have. They will remove the chimney and come out towards the sidewalk. This is well within the easement. He said their neighbors sent in emails stating their approval of his request.

Inspector Ridge said he received 11 letters stating their support of Mr. McVay's request.

Discussion followed.

Deputy City Attorney Phil Noblett said Sec. 38-567(6) deals with existing structures. It is a discretionary provision and the Board may allow it.

Paul Betbeze made a motion to approve case BOZA-21-79 for the reduction in left side yard setback from 10' to 4' based on the fact that it is no less non conforming than the houses across the street, as well as the lot shape and the size is slightly irregular. The reduction in setback only applies to the addition and not the entire property. Alan Richelson seconded the motion.

Discussion followed.

Joe Manuel abstained. The motion carried to approve. The case is approved.

**BOZA-21-80
JAY CAUGHMAN/PAUL ABRAHAM SARKIS
1001 FOREST AVENUE**

Jay Caughman with Caughman & Caughman on behalf of Paul Abraham Sarkis requests a reduction in front yard setback from 25' to 15', and a reduction in front setback along Fairmont Avenue from 25' to 15' for new construction.

No opposition was present.

Scott McColpin made a motion to withdraw without prejudice case BOZA-21-80. Alan Richelson seconded the motion. All in favor, the motion carried to withdraw without prejudice. The case is withdrawn without prejudice.

OTHER BUSINESS:

Hardships:

Deputy City Attorney Phil Noblett gave training to the Board members on hardships. He said there is a great site on the internet from George Dean who wrote a book and blog that can be found at tnzoning.blogspot.com. He said we have many types of zoning. We have a Regional Planning Commission that develops certain rules that say that they are better for the urban core of the City, as opposed to rules that are better for the suburb areas outside. In 1961 our Zoning Ordinance was established here in Chattanooga. Before 1961 you had areas that were developed back in the 20th century at a time where no one drove cars and may have had cows and chickens on the property. At that time a lot of the lots were just 50' lots. Many of those lots have not been developed in 100 years. Developers are saying land is getting scarce and they are looking at these lots now. Attorney Noblett said his job is to try to keep the Board in the center of the road.

Attorney Noblett said Sec. 38-567 is the Board's authority to grant variances. The Board will have to determine if there is undue hardship on the property, as well as determine if there is some type of hardship on the owner to develop their property in accordance with the provisions of the zoning regulations. The City Council makes decisions based on the Planning Commission's recommendations on setbacks. This Board is supposed to be following the intent and purpose of the Zoning Ordinance based upon any exceptions that they grant, that the hardships would apply to the land or building regardless of the owner. He said the variances have to be granted on properties that are applicable to other properties within the City.

Discussion followed and the training ended.

THERE BEING NO further business to come before the Board at this time, the meeting was adjourned.



CHAIRMAN

5-Jan-2022

DATE



SECRETARY

1/5/22

DATE