

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
JANUARY 5, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on January 5, 2022, 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 and Mr. Joe Manuel. Absent were 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 and Ms. Sarah Robbins, Form-Based Code Planner. Ms. Lori Roberson, Court Reporter, was present and took transcription of the proceedings.

MINUTES:

The December 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 December 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the Board defer your case to a future meeting in order to modify your request; or (2) you may request that your case be withdrawn w/o prejudice.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, February 2, 2022.

NEW BUSINESS:

**BOZA-21-81
DAVE FIDATI/V2 HOLDINGS LLC
1800 MCCALLIE AVENUE**

Dave Fidati on behalf of V2 Holdings LLC requests a special permit for a daycare facility in a C-2 zone.

No opposition was present.

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

Dave Fidati addressed the Board. Mr. Fidati said he is with the general contractor that will be working with this group to do the interior renovations to the school. They will add a playground to accommodate that many children. That is the only place on the site that will be disturbed. Currently there is an unopened alley there but they will be seeking abandonment of the alley once they get further down the road.

Discussion followed.

Jeremy Vaughn of 1811 Duncan Avenue addressed the Board. Mr. Vaughn said that he lives directly adjacent to this property. He is not necessarily opposed to this daycare, but he had

questions about the entrance to this daycare and wanted to know if a traffic study had been done. He also wanted to know if this was an accredited facility. He wanted to make sure that the playground will be the only thing added to this daycare. He said the property line where the curb is 3-5' from his bedroom window and wanted to know if there were going to be cars parked at his bedroom window.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said a traffic study has not been completed and is not required for something this size. It can be requested by Mr. Vaughn but he will have to pay for it and have a traffic engineer do it. In cases where the density is not high, it is not required. Usually for redevelopment there is not one done unless you add density and right now there is just a change in traffic patterns.

Dave Fidati addressed the Board in rebuttal to Mr. Vaughn.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said that CDOT along with the RPA reviews the abandonment of the alley requests.

Paul Betbeze made a motion to approve case BOZA-21-81 for a special permit for a daycare facility subject to the checklist submitted and contingent on the abandonment of the alleyway. Ray Adkins seconded the motion. All in favor, the motion was approved. The case is approved.

**BOZA-21-82
THOMAS JOHNSON/LECHLEITER
1302 SHADY CIRCLE**

Thomas Johnson on behalf of Hannah Ruth Lechleiter requests a reduction in front setback from 15' to 13' and a reduction in rear setback from 25' to 5' to build an addition.

No opposition was present.

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

Thomas Johnson addressed the Board. Mr. Johnson said his daughter lives in this house and she just got married and needs an addition for her husband's things. He said there is a sewer line easement coming down the property line.

Discussion followed. In discussion it was determined that Mr. Johnson did not have a survey and it was suggested to Mr. Johnson that he might want to defer his case to next month. There were also some questions about his setbacks. Mr. Johnson said he would like to defer to next month.

Paul Betbeze made a motion to defer case BOZA-21-82 to the February meeting. Alan Richelson seconded the motion. All in favor, the motion was deferred to next month.

**BOZA-21-83
TAMMY CULVER
1820 TERRI LYNN DRIVE**

Tammy Culver requests a reduction in rear setback from 25' to 10' for new construction.

No opposition was present.

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

Tammy Culver addressed the Board. Ms. Culver said she was the landowner and is basically trying to keep the house in line with the houses there. She bought it from some people who lost their home in the tornado. They had it demolished and cleared so she bought a vacant lot.

Discussion followed. During discussion, Ms. Culver wanted to withdraw her case rather than not be able to come back until after a year.

Deputy City Attorney Phil Noblett said the Board is bound by the City Code provision Sec. 38-567 of the Code before a variance can be granted. The Board has to find a hardship (narrowness, shape or certain extraordinary conditions on the property) that would result in undue practical

difficulties to the property. Everyone is supposed to meet the normal setbacks in frontage and side distance requirements of the Code, which is 25' in front and back and 10' on both left and right sides.

Scott McColpin made a motion to withdraw without prejudice case BOZA-21-83. Ray Adkins seconded the motion. All in favor, the motion was carried to approve the withdrawal. The case is withdrawn without prejudice.

BOZA-21-84
WAYNE MCCOY/F&H PROPERTIES
6223 AIRPARK DRIVE

Wayne McCoy on behalf of F&H Properties, LLC requests a special permit for a daycare facility in a C-2 zone.

No opposition was present.

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

Cody Etling, a Civil Engineer with Miller McCoy addressed the Board. Mr. Etling said he represents the property owner. His clients operate the Champion Christian Learning Academy and want to expand their facility. They propose to have 10 classrooms. The playground will be fenced and will have a buffer along the street.

Discussion followed.

Deputy City Attorney Phil Noblett said there is a 2 year time period to complete the project after the Board grants the variance. If the project is not completed within that 2 year period, you have to come back before the Board.

Alan Richelson made a motion to approve case BOZA-21-84 for the special permit for a daycare subject to the site plan and the checklist submitted. Rudolph Foster seconded the motion. All in favor, the motion was approved. The case is approved.

BOZA-21-85
JAY CAUGHMAN/PAUL ABRAHAM SARKIS
1006 FAIRMOUNT AVENUE

Jay Caughman with Caughman & Caughman on behalf of Paul Abraham Sarkis requests a reduction in front yard setback from 15' to 7' and a reduction in rear setback from 25' to 15' for new construction.

Opposition was present.

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

Jay Caughman with Caughman & Caughman addressed the Board. Mr. Caughman said he is the Architect for this project. The owner also owns lot 1. This is a difficult lot which has 3 sides, and is triangular. There are 2 street frontages. This does not leave a lot of area to build on. Mr. Caughman said he is not asking for reduction in setbacks, just along the alley and Fairmount. There is a sewer easement that runs through there as well.

Discussion followed.

Deputy City Attorney Phil Noblett said the relief being requested in this case is the request to put the residence or structure in one place on the property when there might be the ability to make it fit within the normal setbacks. This is new construction that has to be constructed in accordance with the Zoning Ordinance.

Chad Wilson, a resident, addressed the Board. Mr. Wilson said he will be submitting some emails and statements for the record from some neighbors. He said the alleyway does not look like it will accommodate emergency vehicles. It seems like there needs to be a survey done because there may be an easement on that property. Anybody coming down Fairmount would have a limited sight. He is not sure there is a hardship. He said the applicant could make

adjustments. They can build, but they cannot build what is submitted here today. He gave to Lori Roberson, the Court Reporter, the emails he read from.

Discussion followed.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said this is an uncontrolled access point. According to City Code there is no requirement for a site triangle at these intersections because an entrance to the alleyway is supposed to promote caution from everyone.

Sarah Robbins, Form-Based Code Planner for the City addressed the Board. Ms. Robbins said she lives at 111 Fairmount Avenue. She said her family walks the alley and Fairmount Avenue a lot like most residents. Fairmount has no sidewalks. A lot of the houses were built with the 15' setback. This is a big concern for residents especially with children. There are some visibility issues especially on Fairmount. This is a hill and it is very scary to have that cut off. People park on both sides of the street. There are no sidewalks on Fairmount. It is a small neighborhood street and it is a dead end. There is no place to park and traffic is heavy on Forest Avenue.

Shari Stocks addressed the Board. Ms. Stocks said she just wanted to state something that is her concern. The parking is her concern. There is no extra parking there if this is going to be an entertainment area. It does cause a problem with visibility as you are coming down. The concrete is not the original alleyway. The parking will be a real hardship.

Jay Caughman addressed the Board in rebuttal. Mr. Caughman said in no way was he going to restrict the alleyway. His client uses the alleyway. Off of Fairmount Avenue they are requesting 7' off the property line. They are 20' off the Fairmount side.

Deputy City Attorney Phil Noblett said we are dealing with an alleyway as used versus an alleyway on a plat that was recently created. We are also dealing with an early 1900 subdivision. We have a triangular shaped property that has an alley and a street on two sides of it. There are 15' setback requirements from any existing alley or street requirement. There are issues as to the slope that has not been talked about a lot. There is a situation where you have to find a hardship that would warrant these reductions in the front yard and the street setbacks that are involved. There are issues with people going in and out of the alleyway. If the Fire Department can get through they will. The width that is required for an alleyway is 26'. The particular hardship is not created by the applicant, but the Board needs to look at the design. This is a peculiar lot.

Paul Betbeze made a motion to deny case BOZA-21-85 based on the fact that the project can be done within the required setbacks of the City, concern of the visibility in the line of sight, the alleyway access and parking. Joe Manuel seconded the motion.

Discussion followed.

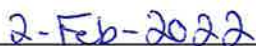
All in favor, the motion was carried to deny. The case is denied.

OTHER BUSINESS:

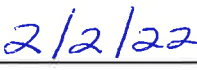
The 2022 Board meeting calendars were placed in front of each Board member.

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
FEBRUARY 2, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on February 2, 2022, at 10:00 a.m. Joining were Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Ms. Susan Gilmore, Vice Chairman Paul Betbeze, Mr. Rudolph Foster, Mr. Lee Brock and Ms. Jackie Thomas. Absent were Mr. Alan Richelson and Mr. Joe Manuel. Also joining were Staff City Attorney Melinda Foster and Ms. Dottie Cannon, Secretary to the Board.

Staff members joining were Mr. Randy Ridge, Zoning Inspector II, Mr. Shannon Mikus, Transportation Designer and Ms. Karna Levitt, Landscape Architect. Ms. Lori Roberson, Court Reporter, was present and took transcription of the proceedings.

MINUTES:

The January minutes were ready to be approved. Ray Adkins made a motion to approve the January minutes as written. Paul Betbeze seconded the motion. All in favor, the January 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, March 2, 2022. He also welcomed new Board member Lee Brock to the Board.

OLD BUSINESS:

**BOZA-21-82
THOMAS JOHNSON/LECHLEITER
1302 SHADY CIRCLE**

Thomas Johnson on behalf of Hannah Ruth Lechleiter requests a reduction in front setback from 15' to 13' and a reduction in rear setback from 25' to 5' to build an addition.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said the applicant requested that his case be deferred until March because his survey was not completed as of today.

Paul Betbeze made a motion to defer case BOZA-21-82 to March. Ray Adkins seconded the motion. A roll call of the votes was taken. Jackie Thomas - yes, Lee Brock - yes, Rudolph Foster - yes, Paul Betbeze - yes, Ray Adkins - yes and Scott McColpin - yes. The case is deferred until the March meeting.

NEW BUSINESS:

BOZA-21-86
CASEY POWELL
3207 ROSEMONT DRIVE

Casey Powell on behalf of Copper Dragonfly of Tennessee LLC requests a reduction in right side yard setback from 10' to 3' for an addition.

No opposition was present.

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

Casey Powell addressed the Board. Mr. Powell said he wanted to build a deck with no roof. He said because this is a corner lot, it is required to be 10' on the side. The survey was done in 2016. He said the easement was his hardship.

Discussion followed.

City Staff Attorney Melinda Foster said under Sec. 38-567 of the City Code before a variance is granted there has to be a hardship. She read from the Code.

Bobbie Such addressed the Board. Ms. Such said the Comedy Catch utilities were on her property and their widest area is the 12'. She said 3207 belongs to the other half of the house. She said they do not have a door that has access to the back. She owns the home and is one of the members of the LLC.

Jackie Thomas made a motion to approve case BOZA-21-86 for a reduction in right side yard setback from 10' to 3' for an addition to the deck based on the fact that this property is no less non-conforming to other structures in the area. Ray Adkins seconded the motion.

Discussion followed.

A roll call of the votes was taken. Jackie Thomas - yes, Lee Brock - yes, Rudolph Foster - yes, Paul Betbeze - yes, Ray Adkins - yes and Scott McColpin - no. The case is approved.

BOZA-21-87
DAVID AMBROSETTI/CHUNG
503 WINSTON ROAD

David Ambrosetti on behalf of Linda Chung requests a reduction in left side yard setback from 5' to 2.5' to build a carport.

No opposition was present.

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

David Ambrosetti addressed the Board. Mr. Ambrosetti said he is the contractor for the property owner. He said the owner, Linda Chung is in her late sixties and she is trying to prepare her home for retirement and make it ADH compatible. She does not have a place to pull her car in and park without getting wet. She has to walk up the steps because of the retaining wall on the right side of the home to get into the front of her house. She would like a carport on the left side of the house. Mr. Ambrosetti said he wants to move the driveway and street cut to the left side.

Discussion followed.

Shannon Mikus, Transportation Designer, addressed the Board. Mr. Mikus said there is already a double driveway near the intersection. He did not think there would be any limitation to that. He said the applicant needs to maintain 5' from the property line to the edge of the driveway.

City Staff Attorney Melinda Foster said under Sec. 38-567 of the City Code before a variance is granted there has to be a hardship. She read from the Code. She said the hardships need to be specifically related to the property itself.

Paul Betbeze made a motion to deny case BOZA-21-87 based on the fact that there is no viable hardship. Rudolph Foster seconded the motion.

Discussion followed.

A roll call of the votes was taken. Jackie Thomas - yes, Lee Brock - yes, Rudolph Foster - yes, Paul Betbeze - yes, Ray Adkins - yes and Scott McColpin - yes. The case is denied.

**BOZA-21-89
SOHAIL ASLAM
612 N. GREENWOOD AVENUE, UNIT A**

Sohail Aslam requests an interpretation of the regulation (keep property as a duplex).

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He referenced Sec. 38-541 about buildings in use at the time of the Zoning Ordinance. He said he received several calls stating that they did not want it to remain a duplex.

City Staff Attorney Melinda Foster said we cannot change the law. Chairman McColpin followed up by stating to the applicant this Board is bound by the City statutes.

Sohail Aslam addressed the Board. Mr. Aslam said he did his due diligence on these properties. He said the realtor told him he could do this.

Discussion followed. Out of the discussion, the applicant was told that he could rezone to R-2, but that he would have to go through the Regional Planning Agency, and eventually the case would go to the City Council for final vote.

Paul Betbeze made a motion on both cases BOZA-21-89 and BOZA-21-90 (Units A & B) to adhere to the interpretation of the regulation by staff. Jackie Thomas seconded the motion. A roll call of the votes was taken. Jackie Thomas - yes, Lee Brock - yes, Rudolph Foster - yes, Paul Betbeze - yes, Ray Adkins - yes and Scott McColpin - yes. The motion was carried to adhere (deny) to the interpretation of the regulation. The case is denied.

**BOZA-21-90
SOHAIL ASLAM
612 N. GREENWOOD AVENUE, UNIT B**

Sohail Aslam requests an interpretation of the regulation (keep property as a duplex).

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He referenced Sec. 38-541 about buildings in use at the time of the Zoning Ordinance. He said he received several calls stating that they did not want it to remain a duplex.

City Staff Attorney Melinda Foster said we cannot change the law. Chairman McColpin followed up by stating to the applicant this Board is bound by the City statutes.

Sohail Aslam addressed the Board. Mr. Aslam said he did his due diligence on these properties. He said the realtor told him he could do this.

Discussion followed. Out of the discussion, the applicant was told that he could rezone to R-2, but that he would have to go through the Regional Planning Agency, and eventually the case would go to the City Council for final vote.

Paul Betbeze made a motion on both cases BOZA-21-89 and BOZA-21-90 (Units A & B) to adhere to the interpretation of the regulation by staff. Jackie Thomas seconded the motion. A roll call of the votes was taken. Jackie Thomas - yes, Lee Brock - yes, Rudolph Foster - yes, Paul Betbeze - yes, Ray Adkins - yes and Scott McColpin - yes. The motion was carried to adhere (deny) to the interpretation of the regulation. The case is denied.

BOZA-22-2
ALLEN JONES/26 PARTNERS LLC
2603 WILLIAMS STREET

Allen Jones with ASA Engineering, Inc. on behalf of 26 Partners LLC requests a landscape variance (reduction in 10' landscape buffer).

No opposition was present.

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

For personal reasons Board member Susan Gilmore recused herself from this case.

Allen Jones addressed the Board. Mr. Jones said he is with ASA Engineering representing the developer for this project. He said the hardship is lot shape because the narrowness or shallowness of the property restricts their ability to develop this site as a permitted use. It was originally rezoned to General Commercial Code (UGC) with the condition that only residential units are allowed to be built. It was originally zoned R-3 but because of the setbacks they had to look at other zoning options. They looked at RTZ as well. Recently the City redeveloped 26th Street, which is going through a lot of changes. Going through the rezoning process they had unanimous support from the RPA, Planning Commission and City Council. The challenge is the way the Urban General Commercial Code reads. It states that a 10' landscape buffer is required between any UGC property and any adjacent residential property. In talking with City staff, the UGC requirement would override, which requires that 10' landscape buffer. Mr. Jones said they have reached out to their neighboring property owners to the south of their property. They are asking for a 1' buffer to put a 6' fence in place across the entire southern boundary property and that would allow them to still have the intent of the landscape buffer.

Discussion followed.

Karna Levitt, Landscape Architect addressed the Board. Ms. Levitt said the way she and Director Dallas Rucker are looking at this, the Landscape Ordinance underlies all the zones. Within the UGC zone, there is an additional requirement for screening against any other residential zones. It gives a reference back to the Landscape Ordinance which strictly is for the screening standards. The RPA also sees that the Code is not written as well as it should be, particularly in this urban environment. The City has an interest in not having buildings set back in the urban area because that drives parking in front. The zone provides a more attractive appearance in the neighborhood instead of numerous curb cuts down those main streets.

Allen Jones addressed the Board. Mr. Jones said he will be planting 3 gallon shrubs. They could also put green vines on the fence.

Eric Cummings, property owner and developer addressed the Board. Mr. Cummings said he has developed many properties in the Southside and is one of the partners of 26 Partners LLC. They are proposing the exact kind of project that the City wants to see here. This type of density is appropriate for this area. It has been done before and done successfully. He said the setbacks that R-3 requires are not appropriate for this area.

Discussion followed.

Paul Betbeze made a motion on case BOZA-22-2, to adhere to the 10' landscape buffer because the rules need to be changed and addressed with the City Council. Jackie Thomas seconded the motion. A roll call of the votes was taken. Jackie Thomas - yes, Lee Brock - no, Rudolph Foster - yes, Paul Betbeze - yes, Ray Adkins - yes and Scott McColpin - no. Chairman McColpin said there is not a majority to move on the motion, therefore the case is deferred to the next month. The applicant may modify his request, but he will need a majority of the Board.

**** Later through email City Staff Attorney Melinda Foster stated the following: “The Chair misstated during the meeting that 5 votes were needed for a motion to carry. At the conclusion of the meeting, the Chair realized his mistake. While there was no discussion at that time about the merits of the case, the question was raised as to how to proceed procedurally. I stated that I would check into the matter further. After talking about it with Deputy City Attorney Phil Noblett, we determined that the 4-2 vote to deny the variance was valid, and therefore the motion to deny is granted.”

The applicant then later stated by email that he would either withdraw his case or let the motion stand as denied. The case is denied.

BOZA-22-3
RYAN TURNER/RAGAN SMITH ENGINEERING
1051 ASHLAND TERRACE

Ryan Turner with Ragan Smith Engineering on behalf of ARC HR5MSSE001 LLC requests a landscape variance (buffer).

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said the property was once a bank building.

Collin Johnson with Ragan Smith Engineering addressed the Board. Mr. Johnson said he is going to tear down the bank building and put in a car wash. On the site plan is a deeded access easement, which contractually obligates them to maintain a paved access for their adjacent neighbor the U-Haul. That deeded access easement coincides with the same width of the required landscape buffer. So in order to honor the access deeded access they cannot honor the landscape buffer. They are requesting to have a variance from the landscape buffer. He said they have two landscape plans prepared to honor the landscape buffer but they just cannot do it where they are supposed to do it.

Discussion followed.

Paul Betbeze recused himself from this case because he owns some property there.

Susan Gilmore made a motion to approve case BOZA-22-3 for the landscape buffer variance with the stipulation that the buffer will include trees especially at points of egress and not the bushes per the site plan submitted. Ray Adkins seconded the motion. An amendment was made to the motion to include that the applicant will remediate the required trees and/or shrubs on the property as shown on the site plan to the satisfaction of the Landscape Architect. Susan Gilmore and Ray Adkins agreed to the amendment.

Discussion followed.

A roll call of the votes was taken. Jackie Thomas - yes, Lee Brock - yes, Rudolph Foster - yes, Paul Betbeze - yes, Ray Adkins - yes and Scott McColpin - yes. The case is approved.

BOZA-22-4
DONNA SHEPHERD/CNE
2003 BAILEY AVENUE

Donna Shepherd with AD Engineering on behalf of Chattanooga Neighborhood Enterprise, Inc. requests a landscape variance (reduction in landscape screen).

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said the applicant wanted to withdraw her request.

Scott McColpin made a motion to withdraw without prejudice case BOZA-22-4. Jackie Thomas seconded the motion. A roll call of the votes was taken. Jackie Thomas - yes, Lee Brock - yes, Rudolph Foster - yes, Paul Betbeze - yes, Ray Adkins - yes and Scott McColpin - yes. The case is withdrawn without prejudice.

**BOZA-22-5
MIKE PRICE/GARY RUDOLPH
905 E. 14TH STREET**

Michael Price with MAP Engineers on behalf of Gary Rudolph requests a special permit for a two-family dwelling on a lot of record.

No opposition was present.

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

Mike Price with MAP Engineers addressed the Board. Mr. Price said currently there is a single family home on that site since at least the 1930's. It has not been occupied in at least 6 years. It is in a dilapidated condition and needs to be torn down. New development is occurring in the area and this is an appropriate use in the area. According to the site plan submitted both access points will come from the street. They are not allowed to have front parking and they do not have access in the back that has been verified. If they cannot park in the back, they will continue to park on the street. He said they will be using 2 parking spaces in the back or 4 on the street depending on the outcome after what comes about from the back of the property.

Discussion followed.

City Staff Attorney Melinda Foster said she would like for CDOT to weigh in on this. Sec. 38-5024(a) was referenced.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said the parking would still be required per zone. He is not opposed to this because this is one lot on this street. If the Board chooses to consider parking to be part of this they would have to come up with a way on this specific lot in this specific situation.

Paul Betbeze made a motion to approve case BOZA-22-5 for a special permit for the two-family dwelling and to approve off street parking based on the narrowness of the lot. Ray Adkins seconded the motion.

Discussion followed.

A roll call of the votes was taken. Jackie Thomas - yes, Lee Brock - yes, Rudolph Foster - yes, Paul Betbeze - yes, Ray Adkins - yes and Scott McColpin - yes. The case is approved.

**BOZA-22-6
DONNA SHEPHERD/CNE
2009 BAILEY AVENUE**

Donna Shepherd with AD Engineering on behalf of Chattanooga Neighborhood Enterprise, Inc. requests a landscape variance (reduction in landscape screen).

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said the applicant wanted to withdraw her request.

Scott McColpin made a motion to withdraw without prejudice case BOZA-22-6. Paul Betbeze seconded the motion. A roll call of the votes was taken. Jackie Thomas - yes, Lee Brock - yes, Rudolph Foster - yes, Paul Betbeze - yes, Ray Adkins - yes and Scott McColpin - yes. The case is withdrawn without prejudice.

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
MARCH 2, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on March 2, 2022, 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. Lee Brock. Absent was Ms. Jackie Thomas. Also joining were Deputy City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

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

MINUTES:

The February minutes were ready to be approved. Ray Adkins made a motion to approve the February minutes as written. Paul Betbeze seconded the motion. All in favor, the February 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, April 6, 2022.

OLD BUSINESS:

**BOZA-21-82
THOMAS JOHNSON/LECHLEITER
1302 SHADY CIRCLE**

Thomas Johnson on behalf of Hannah Ruth Lechleiter requests a reduction in front setback from 15' to 13' and a reduction in rear setback from 25' to 5' to build an addition.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said this was deferred from last month because the applicant was waiting on his survey. The applicant was not present.

Paul Betbeze made a motion to withdraw without prejudice case BOZA-21-82. Joe Manuel seconded the motion. All in favor, the motion carried to withdraw without prejudice.

NEW BUSINESS:

**BOZA-22-7
KARCINDA ROBERTS
1905 TUNNEL BOULEVARD**

Karcinda Roberts on behalf of Color Wheel Learning Center, LLC 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. He said CDOT had questions about the parking.

Karcinda Roberts addressed the Board. Ms. Roberts said they are opening a daycare and were going to stay at having 15 children.

Rochelle McClain addressed the Board. Mr. McClain said they had a presubmittal meeting already. He said the backyard area is gravel and could be considered as parking as well.

Discussion followed.

Deputy City Attorney Phil Noblett said it looks like it is really close in there between the fenced area of the playground and the back of the building. He wanted to know if they could have fencing from that area so the kids could not run out from the playground. He said this could be added as a condition in the motion. He said the Board looks to make sure it is safe for daycares.

Rudolph Foster made a motion to approve case BOZA-22-7 for the special permit for a daycare based on contingent approval from CDOT of parking of 6 spaces and additional fencing added to the playground area coming off the back. 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, Rudolph Foster - yes, Alan Richelson - yes and Susan Gilmore - yes. The case is approved.

**BOZA-22-8
LISA FLODEN
3600 12TH AVENUE**

Lisa Floden requests a reduction in left side yard setback from 10' to 5' for an addition.

No opposition was present.

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

Lisa Floden addressed the Board. Ms. Floden said she is the homeowner and very recently bought this house. She said she would like to do a bay window that comes off the side of the house. Right now that side of the house is at 8' from the side setback.

Chairman McColpin said let the record show that Board member Lee Brock just joined the meeting.

Ms. Floden continued. She is planning an addition for a new kitchen. She is going straight back from the existing house in the main part of the addition. A bay window there would transform that space.

Discussion followed.

Deputy City Attorney Phil Noblett said this Code and the Board has to follow Sec. 38-567 on finding some sort of hardship before they grant a variance like this. It would apply to the property regardless who the owner is.

Susan Gilmore made a motion on case BOZA-22-8 to approve the reduction in left side yard setback from 10' to 5' to accommodate the addition of the bay window and only the bay window area. Alan Richelson seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Scott McColpin - yes, Rudolph Foster - yes, Alan Richelson - yes and Susan Gilmore - yes and Lee Brock - yes. All in favor, the motion carried to approve.

OTHER BUSINESS:

Chairman Scott McColpin wanted to state that he misspoke at the February meeting on Case BOZA-22-2. There was a majority of the votes to let the motion stand to deny with a 4-2 vote with 1 member abstaining. So the case is denied,

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
APRIL 6, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on April 6, 2022, at 10:00 a.m. In attendance were Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Ms. Susan Gilmore, Vice Chairman Paul Betbeze, Mr. Joe Manuel, Mr. Lee Brock and Ms. Jackie Thomas. Absent was Mr. Rudolph Foster. Also in attendance were Deputy City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

Staff members in attendance were Inspectors Randy Ridge, Zoning Inspector II, Inspector Doug Pell, Zoning Inspector and Ms. Karna Levitt, Landscape Architect. Ms. Lori Roberson, Court Reporter, was present and took transcription of the proceedings.

MINUTES:

The March minutes were ready to be approved. Ray Adkins made a motion to approve the March minutes. Paul Betbeze seconded the motion. All in favor, the March 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, May 4, 2022.

NEW BUSINESS:

**BOZA-21-82
THOMAS JOHNSON/LECHLEITER
1302 SHADY CIRCLE**

Thomas Johnson on behalf of Hannah Ruth Lechleiter requests a reduction in front setback from 15' to 13' and a reduction in rear setback from 25' to 5' to build an addition.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said last month the Board made a motion to withdraw this case without prejudice. He said the reason for the delay was because the applicant was trying to get the survey completed.

Chairman McColpin said the Board could entertain a motion to reconsider this case. He said the reconsideration is to remove the withdrawal.

Joe Manuel made a motion to reconsider case BOZA-21-82. Paul Betbeze seconded the motion. All in favor, the motion to reconsider this case was approved. Therefore, the case is brought back before the Board.

Thomas Johnson addressed the Board. Mr. Johnson said they finally did get a survey. His daughter lives in this house and has been there for about 5 years. She recently got married and her husband needs a garage. They found out there is a sewer line right down the driveway so they decided to move the garage to the other side. The house faces Hixson Pike but the address is Shady Circle. If Shady Circle is the front then the back is adjacent to the neighbor. If that is so, they need a reduction from 25' to 5'. He said the corner lot and the sewer line created the hardship. They are planning to build a bathroom with a 10' addition. Mr. Johnson said he still needs the front setback. He also added that they both do not want to come off onto Hixson Pike because her husband got rear ended and it is dangerous.

Discussion followed.

Deputy City Attorney Phil Noblett said Sec. 38-567 gives the Board members the authority to grant the variances. The shape of the property is one of the reasons for a hardship, as well as the sewer line which cannot be built on. This is an addition to this property. The conditions can be that the entrance should be off of Shady Circle and any variance not to exceed 5' off the property line adjacent to the applicant's property in the rear.

Paul Betbeze made a motion to approve case BOZA-21-82 for a reduction in front setback from 15' to 14' and a reduction in rear setback from 25' to 5' based on the lot shape being irregular, the sewer line on the property, it is no less non-conforming than the properties next door and the 5' rear setback only applies to the addition area, not the entire property line. Alan Richelson seconded the motion.

A roll call was taken at this time. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes and Scott McColpin - yes. The motion was unanimously approved.

**BOZA-22-9
JERRY ISAKSEN/HELEN ROSS MCNABB
1510 OLD RINGGOLD ROAD**

Jerry Isaksen on behalf of Helen Ross McNabb Center Inc. requests a special permit for a group home.

No opposition was present.

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

Jackie Thomas recused herself from this case.

Jerry Isaksen addressed the Board. Mr. Isaksen said he is the applicant for the Helen Ross McNabb Center. He said they went through a rezone. Now they would like a building permit for the additional space. They would like to have up to 12 people and need additional space. He said they have been operating as a group home. They are increasing 300 square feet on the east side in addition to the existing facility with these additions, which is 2 bedrooms and 1 bathroom. There is one (1) staff member there at all times. He also said they are not housing anyone incarcerated or anyone with drug issues.

Houston Smelcer, Vice President of Development and Government Relations for Helen Ross McNabb Center addressed the Board. Mr. Smelcer said the Helen Ross McNabb Center is a community mental health center. They serve 29 counties in East Tennessee including Hamilton County. In 2013 they merged with the Fortwood Mental Health Center and as part of that merger there was a simultaneous merger with the Rosewood Center. Those particular housing sites were some of the only options for adults coming out of the State's mental health institutes. They renovated some of those sites and even rebuilt one of the sites to bring it up to a better standard of housing. He said the adults living here are not capable of true independent living due to their mental health issues and some physical issues.

Discussion followed.

Paul Betbeze made a motion to approve case BOZA-22-9 for the special permit for a group home subject to the checklist. Joe Manuel seconded the motion.

Deputy City Attorney Phil Noblett said this is up for a special exceptions permit in an R-4 zone and residential homes are allowed within this zone. He said an applicant needs to file an application on the front end in order to be able to do it. It has to show a number of residents, which in this case is more than 8 residents. This is an R-4 zone and the Board goes through the checklist and they have to find that the use is appropriate to the zone and will not conflict with the

developed character of the area. It has to be reviewed by the Traffic Engineer with the parking and they have to determine that it will not be in conflict with the adopted plans for the community. Before one can operate a group home one has to have both the special exceptions permit and State license issued.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes, Jackie Thomas recused herself. The motion carried to approve. The case is approved.

**BOZA-22-10
JERRY ISAKSEN/HELEN ROSS MCNABB
1508 OLD RINGGOLD ROAD**

Jerry Isaksen on behalf of Helen Ross McNabb Center Inc. requests a special permit for a group home.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said this is an existing facility and has been in operation. This case has the same drawing as the previous case that addresses both buildings.

Chairman McColpin said this is almost the same thing as the last case.

Jerry Isaksen addressed the Board. Mr. Isaksen said he was not changing the footprint. He said this house is larger than the 1510 property discussed earlier. He said the checklist is the same as the last case as well.

Discussion followed.

Jackie Thomas recused herself from this case.

Deputy City Attorney Phil Noblett said the same items apply from the previous case to this case.

Paul Betbeze made a motion on case BOZA-22-10 to approve the special permit for a group home subject to the checklist and the State License. Ray Adkins seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes. Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes and Scott McColpin - yes. Jackie Thomas recused herself. The motion passed. The case is approved.

**BOZA-22-11
NAJIM HASAN
2208 TRISTRAM ROAD**

Najim Hasan requests a reduction in required left side yard setback from 5' to 3' for an accessory building.

Opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said the building inspector said it was built without a permit and needed to go to the Board of Zoning Appeals. That is how it ended up here today. He said they are in violation with the Stormwater Department. In addition, some neighbors are here in opposition.

Najim Hasan addressed the Board. Mr. Hasan said he is the applicant and owner of the property. Nasmul is his legal name but goes by Najim. He moved to the property in 2020 and has been looking for a garage building to house his boat and other things. He contacted his original builder who built his house to build a metal building and he inaccurately told him that he did not need a City permit for a metal building. Mr. Hasan said he went to a concrete contractor and had a pad made. Later on he discovered you do need a permit for a metal building.

Discussion followed.

Randy Metcalf addressed the Board. Mr. Metcalf said he lives 2 doors to the left of this house. He said this metal building has a 15' eave height and is 40' long. It is lightweight and of metal construction. He has lived there for 18 years and has never seen it flood so bad before until Mr. Hasan's drainage easement was covered up. He said the second piece of pipe is laying on his

property. He said Mr. Hasan did put up a wood fence. This property is in multiple violations with the neighborhood covenants. No metal buildings are allowed per the covenants. He said no recreational vehicles are allowed there as well. There is multiple machinery in the back and it is a pigsty at this house. He said he is begging the Board not to approve this.

Discussion followed.

Candace Ross addressed the Board. Ms. Ross said she lives at the house closest to the metal structure. She said one of her objections is the property value and she said she gets a lot of sun that beams down from the metal building. She said it is close to the property line. With the drainage, that street has been flooding since the applicant has torn down the drainage. It is an eyesore and not in good taste. She said it is too close to her property and is a large obstruction. Her concern is rodents coming onto her property. She has lived there 7 or 8 years.

Discussion followed.

Beau Bilyeu addressed the Board. Mr. Bilyeu said he lives at 2204, on the other side of the applicant. He said this is a legitimate repair garage. There is no storm draining and there has been a tremendous amount of flooding. He has been dealing with deaths and has not had the time to deal with the flooding. He said the bus itself is actually blocking the access. He did not object to the fence being on his property line by 2' or 3' but the bus has been sitting there for a long time. He has lived there since 2020. His grievance is something sitting on all adjacent property lines. His issue is the property line repeatedly being expanded.

Alan Fulk addressed the Board. Mr. Fulk said he lives at 2115 Merlin. He said they have discussed a lot of the issues with this property. He represents a larger group of people, the formation of the new homeowners association. Several violations that have been discussed are an issue, drainage easement and setbacks are an issue as well. There has been a blatant disregard for any sort of covenants. Ignorance is not an excuse here. He had to do some modifications to this very drainage easement around his own property but he submitted engineering drawings. He said City Stormwater was involved with his entire project. Drainage is a problem in their subdivision and it backs up everywhere. For someone to fill in the drainage on their own and throw a pipe in there without any engineering drawings and without any stormwater evaluations is again a blatant disregard. He said the applicant was warned about the building going up and it went anyway. He said if the Board grants this variance it will set a precedent for others to do the same. This neighborhood has been devastated by the tornado and they have been trying to improve the neighborhood since. A lot of good efforts have been made.

Discussion followed.

Mr. Hasan addressed the Board in rebuttal. Mr. Hasan said the whole idea for that building was to house all the things shown in the picture. That was the only reason he had not removed the bus. His intention was not to keep the bus there permanently. That was temporary until he could house those things. He said Mr. Fulk has a fence himself that goes to the front of the building. He said everyone here has fences that violate the covenants. He said his building is 30 x 40, but it was to accommodate the bus. He plans to go through the engineering assessment. He said there is a pipe sitting in the back but he stopped that work until he could get the building taken care of.

Ms. Thomas asked about his hardship. Mr. Hasan said the storm easement was his hardship. He only moved the rocks out of the way and he planned to put a conduit pipe down the drainage easement. He filled it up by the fence area only. He said the City Inspector told him to finish what he had here but not to build on it until he had the permit.

Deputy City Attorney Noblett said in a case like this the Board does not have control over covenants that are on the deeds in this area. It sounds very specific in those covenants that you cannot have a metal building. This Board looks to see if there is a hardship on this property. It looks like this property line is somewhat different from the GIS maps. The applicant's property because of a topographical condition has a 16' drainage easement running right through the middle of the property. So that is a consideration the Board can consider under Sec. 38-567. He has a big lot that is 85' wide and 154' long even with a 16' drainage easement running through it. He has a stormwater issue that needs to be resolved first.

Scott McColpin made a motion to deny case BOZA-22-11 based on the lack of a hardship. Joe Manuel seconded the motion.

Discussion followed.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes and Scott McColpin - yes. All in favor, the motion was denied. The case is denied.

Chairman McColpin suggested to Mr. Hasan to start attending the homeowners association meetings and start talking to his neighbors.

OTHER BUSINESS:

Deputy City Attorney Phil Noblett introduced 2 new young associates to the Board. They were guests at the meeting.

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
MAY 4, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on May 4, 2022, at 10:00 a.m. In attendance 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. Lee Brock and Ms. Jackie Thomas. Also in attendance were Deputy City Attorney Phil Noblett, City Attorney Emily O'Donnell and Ms. Dottie Cannon, Secretary to the Board.

Staff members in attendance were Inspectors Randy Ridge, Zoning Inspector II, Doug Pell, Zoning Inspector, Ms. Karna Levitt, Landscape Architect, Mr. Shannon Mikus, Transportation Designer and Ms. Melissa Mortimer, Historic Preservation Planner. Ms. Lori Roberson, Court Reporter, was present and took transcription of the proceedings.

MINUTES:

The April minutes were ready to be approved. Alan Richelson made a motion to approve the April minutes. Ray Adkins seconded the motion. All in favor, the April 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, June 1, 2022.

NEW BUSINESS:

**BOZA-22-14
GEORGE JUDZEWITSCH/THORNHILL
1509 E. 48TH STREET**

George Judzewitsch with Diamond Home Builders on behalf of Thornhill Management Group LLC requests a reduction in right and left side setback from 10' to 5' for new construction.

No opposition was present.

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

George Judzewitsch addressed the Board. Mr. Judzewitsch said he is the builder for Thornhill Management. He said Mr. Thornhill was present as well. They are proposing to put a 2 story home on this 30' lot. The reason for the request for the setback is because the land was originally in the grandfather clause but the owner cut off a piece of the land back in 1962, which then reverted it back to the 10' setback on either side, which makes it really hard to put a house on there given it's 10' wide from the 30' lot. That is why they are requesting the revision back to the grandfather clause. They are trying to bring the neighborhood up and coming.

Discussion followed. Inspector Ridge explained to the Board why this was not a lot of record. Mr. Judzewitsch said he had a survey.

Deputy City Attorney Phil Noblett said the City Ordinance 6958 was passed in 1961. Sec. 38-567 gives this body the authority to grant a variance provided there is a hardship and this body has to determine if a hardship exists.

Discussion followed.

Susan Gilmore made a motion to approve case BOZA-22-14 for the reduction in right and left side setback from 10' to 5' for new construction based on the narrowness of the lot mentioned in Sec. 38-567 and only applies to the building as shown in the site plan. Alan Richelson seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - no, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes and Scott McColpin - yes 8-1. The motion passed. The case was approved.

**BOZA-22-15
BRADLEY WARDLAW
717 W. BELL AVENUE**

Bradley Wardlaw requests 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.

Bradley Wardlaw addressed the Board. Mr. Wardlaw said he is the owner of the property. He wants to build a 2 story house for rental purposes. He needed 25' in order to build this house and needed to reduce it down. He only has 19 ½ feet showing.

Discussion followed.

Deputy City Attorney Phil Noblett said the Zoning Ordinance 5149 was passed on June 20, 1961. At that point in time the lot standards were established for single family dwellings. Sec. 38-567 gives this body the authority to grant a variance provided there is a hardship.

Ray Adkins made a motion to approve case BOZA-22-15 for the reduction in rear setback from 25' to 15' for new construction. The hardship is the lot shape. Rudolph Foster seconded the motion.

Discussion followed.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - no, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes and Scott McColpin - no 6-2 The motion passed. The case was approved.

**BOZA-22-16
BRADLEY WARDLAW
2510 O'REAR STREET**

Bradley Wardlaw requests 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.

Bradley Wardlaw addressed the Board. Mr. Wardlaw said he went before the Board of Zoning Appeals a couple of years ago for this same variance and his case was approved. He did not know the variance expired and that is why he is here today. He said it is a lot of record. He is building a rental house. He said with the shape of the lot he wants to back up the rear setback a little so he can keep the parking in the front. He said it conforms with the neighborhood.

Discussion followed.

Deputy City Attorney Phil Noblett discussed lots of record. He said the requirements of lots of records are less than the standard. The normal front yard is supposed to be not less than 15', side yards 5' and rear yard to conform to the setback where the zone is located.

Discussion followed.

Jackie Thomas made a motion to deny case BOZA-22-16 due to a lack of hardship. Joe Manuel seconded the motion.

A roll call was taken. Ray Adkins - no, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - no, Susan Gilmore - no, Lee Brock - no, Jackie Thomas - yes and Scott McColpin - yes. 5-4 The motion to deny passed. The case was denied.

BOZA-22-17
KEN FACKLER
2110 WISTERIA DRIVE

Ken Fackler requests relief from Code Section 38-504 (placement of accessory buildings).

No opposition was present.

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

Ken Fackler addressed the Board. Mr. Fackler said he is the owner of the residence. He purchased the property 2 ½ years ago. He said they have 2.6 acres and the property is very steep going down to the lake from that ridge. They are requesting the building for their boat, jet skis and an RV. The house sits 450' off the street and his neighbors are approximately the same distance off that street.

Discussion followed. It was suggested that this case be deferred to next month so that Mr. Fackler could bring a better site plan and rendering of the building. Mr. Fackler agreed to this.

Joe Manuel made a motion to defer case BOZA-22-17 to the June meeting. Jackie Thomas seconded the motion.

Deputy City Attorney Noblett said he was looking at Sec. 38-504. That section explains detached garage storage areas, pool areas, small storage garages and height requirements not more than 1 story. Under 38-567 this body needs to look at the shape or topography to see if there is a hardship.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - no, Susan Gilmore - no, Lee Brock - yes, Jackie Thomas - yes and Scott McColpin - yes. 7-2 The motion passed. The case was deferred to June.

At this point City Attorney Emily O'Donnell took over the meeting as council since Deputy City Attorney Phil Noblett had to leave the meeting.

BOZA-22-20
KIMBERLY RUSCOE
2917 FOLTS CIRCLE

Kimberly Ruscoe requests a reduction in required front setback from 25' to 10' for new construction.

Opposition was present.

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

Kimberly Ruscoe addressed the Board. Ms. Ruscoe said she and her husband are the owners of the lot. She said she was told it was a lot of record when she went to pull the permit. Then she was told it had been subdivided in 2019. She bought the house in March of 2021, but they did not live here at the time.

Discussion followed.

David Peirano of 2855 Crestwood Avenue addressed the Board. Mr. Peirano said every house is at least 25-30 feet off the edge. He said we are setting a precedent for on-street parking in this area. There is not a stop sign at the corner. All of the homes are set back substantially. He said they do not want a flip house again. He said he did not see the site plan until now.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said it should not be an issue because of the distance it is from the intersection.

Pam Fisher of 2860 Crestwood Avenue addressed the Board. Ms. Fisher said she is the next door neighbor to the applicant. She bought her house in 2019. The previous owners had subdivided the lot and they did not know that when they bought the house. There is no stop sign there and everyone comes up the street and does not look. They have a lot of walkers in the area. This is the first time she has seen the site plan as well. However she still thinks it is going

to be pretty close. She said she felt sure the home was in the area of Stuart Heights and the covenants and restrictions have always been 25'.

Judy Powell of 2942 Folts Circle addressed the Board. Ms. Powell said she just got the notice and the variance said 25' to 10'. She said part of the property is not the applicant's property. The applicant lives on an elevated lot. Ms. Powell said she built her house 11 years ago. When City trucks come through they have trouble making the turn left so they have to go around the circle. That is a problem for that street. It is disturbing to her that because the real estate properties are going up, people are building on lots that have been vacant for 50 years because they are mostly unbuildable. She added that the site plan she has seen today is acceptable to her.

David Baker of 2943 Folts Circle addressed the Board. Mr. Baker said his concern was the traffic and seeing the placement of the house on the lot. Hearing from the applicant has helped his concerns some. He said that lot has been overgrown in the past and has created some sight problems in the past.

City Attorney Emily O' Donnell said she understands the confusion of the word setback, but said we do define it from the property line. Under Sec. 38-567 there is a topographic condition. And given that there is a buffer between the line and street and under subsection 5, it is set back similarly to other properties. She said she is very familiar with Folts Circle and that hill is very steep and you cannot move the house back anymore. So that does prove a hardship for building on the property.

Paul Betbeze made a motion to deny case BOZA-22-20 for the reduction in required front setback from 25' to 10' for new construction based on the visibility and traffic and all the concerns of the neighbors. Joe Manuel seconded the motion.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said he did not see an issue with the placement of the driveway. He said he was looking at the streetview as well and did not see that the house was close enough to the intersection and close enough to the road to be an obstruction

Chairman Scott McColpin said this Board does not have the right to change the covenants, conditions and restrictions of a Homeowners Association.

Discussion followed.

A roll call was taken. Ray Adkins - no, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - no, Alan Richelson - no, Susan Gilmore - no, Lee Brock - no, Jackie Thomas - yes, Scott McColpin - yes. The motion to deny failed. A new motion was made at this time.

Alan Richelson made a motion to grant case BOZA-22-20 for the reduction in required front setback from 25' to 10' for new construction. The hardship is the topography and shape of the lot. Ray Adkins seconded the motion.

Discussion followed.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - no, Joe Manuel - no, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - no, Scott McColpin - no. 5-4. The motion passed. The case was approved.

**BOZA-22-21
MIKE GRAY/FRC GENESIS FUNDSUB IV
3151 BROAD STREET**

Mike Gray with Tacala, LLC on behalf of FRC Genesis Fundsub IV LLC requests a building setback in UGC zoning.

No opposition was present.

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

Mike Gray with Tacala, LLC addressed the Board. Mr. Gray said he is asking for a left and front setback. They have been operating this store for a number of years. This store has been in existence for over 20 years. He represents the landowners FRC Genesis. The building is at its limit. It no longer can be modified. They want to improve the lot and keep a similar footprint. They want to avoid the 0 setback. He said zero setbacks are killers for a drive thru. They propose to push back a little further and provide for landscaping and keeping with a similar drivethru. The current building is 25'. The front setback is 43'. He said landlords are not in

communication with the owners. They constantly flip owners. They are approximately 15.5' on the side. Restaurant people generally do not choose 0 setbacks, which is in the UGC.

Discussion followed.

City Attorney Emily O'Donnell said she is looking at the intent. She stated the intent of the UGC. The intent is to reduce the need for parking. This type of establishment is exactly what we want in the UGC. If you are doing 90% of drive thru, you eliminate the need for more parking, which is a better use for space. She believes it is appropriate for a special exception if the Board so deems it.

Susan Gilmore made a motion to approve case BOZA-22-21 for the front setback from 0' to 44' and the left side setback from 0' to 15.5' per the site plan submitted. Paul Betbeze seconded the motion.

Discussion followed.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said the UGC also mentions a number of curb cuts on primary streets. Right now there is one curb cut on Broad Street, which is a primary street and one curb cut on a secondary street. Because this building has frontages on two primary streets, they are taking one curb cut from the secondary street and having two curb cuts on a primary street, which would cause them to have to have a variance granted on that as well. Mr. Mikus defined a primary street.

City Attorney Emily O'Donnell said this applicant came with a request for a setback. With a motion on the floor and a seconded, it would be appropriate to carry out that issue. Sec. 38-211.1 was referenced. The City Transportation can approve the curb cut. Mr. Mikus concurred and said that would be during permitting. City Attorney O'Donnell said the variance proposed here is only for a setback. She said if this Board passes this motion he still has to go to Traffic.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson, - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes. The motion passed unanimously. The case was approved.

**BOZA-22-22
MATHEW BROWNFIELD/BPOE LODGE#91
1067 GRAYSVILLE ROAD**

Mathew Brownfield with Grant, Konvalinka & Harrison P.C. on behalf of BPOE Lodge #91 requests a special use permit for parking (increase parking spaces to 27).

No opposition was present.

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

Mathew Brownfield with Grant, Konvalinka & Harrison P.C. addressed the Board. Mr. Brownfield said he was representing the Elks Lodge #91. They have been in the City for 125 years and have been in East Brainerd for 40 years. He said he is a member and they have grown from 300 members to over 600 members. They only have a few parking spaces on the front and on the side. They front Graysville Road. They have 49 parking spaces. They own the property behind the lodge, which is undeveloped. They are seeking a special use permit to expand their parking across the drainage ditch to the property behind the Lodge. The front property is R-4 the back property is R-1. They are asking to cross the ditch and to expand their parking to this area. He sent letters to all the property owners around them to let them know what they were doing and no one replied. He said Mr. Bill Wilkerson, the architect is here and two officers of the Lodge are here as well, Neil Butler and David Thompson.

Discussion followed.

William Wilkerson, Architect addressed the Board. Mr. Wilkerson said structure gravel parking is different from gravel on top of the pavement. It is structured so that there is a foundation underneath it to support the gravel. They deliberately did that so it drains out through that rather than flowing over the top of it. It still can be a very attractive gravel lot. There is a good bit of distance between this lot and the neighbor. Between the edge and property line there are sewer easements that run down the Elks side of the property line. He said there are no plans to light the property.

Discussion followed.

Karna Levitt, Landscape Architect addressed the Board. Ms. Levitt the landscape buffer requirement is based zone to zone. It is R-1 to R-1 and they do not need a buffer.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said they did not have any issues with this.

City Attorney Emily O'Donnell said this body has the authority to authorize this because it is R-1 and in the right zoning spot. It does provide that the plans provide the paving and adequate drainage.

Scott McColpin made a motion to deny case BOZA-22-22 for the special use permit for the parking based on the fact that there is no sound barrier. Joe Manuel seconded the motion.

Discussion followed.

A roll call was taken. Ray Adkins - no, Paul Betbeze - no, Joe Manuel - yes, Rudolph Foster - no, Alan Richelson - no, Susan Gilmore - no, Lee Brock - no, Jackie Thomas - no, Scott McColpin - yes 7-2. The motion to deny failed.

Jackie Thomas made a motion to approve case BOZA-22-22 for the special use permit for parking. Ray Adkins seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes 9-0. The motion passed unanimously. The case was approved.

**BOZA-22-24
GEORGE JUDZEWITSCH/JOHNSON
901 MISSISSIPPI AVENUE**

George Judzewitsch with Diamond Home Builders on behalf of Robert S. Johnson requests a reduction in right side and rear setback from 5' to 2' for new construction.

No opposition was present.

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

George Judzewitsch addressed the Board. Mr. Judzewitsch said Mr. Johnson has been trying to sell his home and he is wanting to build a garage so he can sell the home. They are asking for a 2' variance. Mr. Johnson has an email from his next door neighbor that says they are ok with where it will be built.

Robert Johnson addressed the Board. Mr. Johnson said he is not selling the property. He just took it off the market. He has bought houses and restored them and made them stately. The garage they plan on building will be made of brick. He has a special needs son. It is hard to take his son in and out of the house the way it is now. His neighbors think it is an enhancement to the property. Throughout the neighborhood there are a lot of garages and storage buildings. Other neighbors do not have the 5' in the setback and this is not anything new in the neighborhood.

Discussion followed.

Paul Betbeze made a motion to approve case BOZA-22-24 for the reduction in right side and rear setback from 5' to 2' for new construction based on the fact that it is no less non-conforming than any other structures and only applicable to the garage. Ray Adkins seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - abstained, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes. 8 votes in favor, 1 abstention The motion passed. The case was approved.

**BOZA-22-25
MIKE PRICE/GARY RUDOLPH
1015 E. 13th STREET**

Mike Price with MAP Engineers on behalf of Gary and Gloria Rudolph requests a special permit for a multi-family dwelling on a lot of record.

No opposition was present.

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

Brett Tabor with MAP Engineers addressed the Board. Mr. Tabor said the property owners would like to build a 3 unit multi-family structure. The lot has been vacant for some time.

Discussion followed.

Lee Brock made a motion to approve case BOZA-22-25 for the special permit for multi-family dwellings on a lot of record. Joe Manuel seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes. The motion passed unanimously. The case was 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
JUNE 1, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on June 1, 2022, at 10:00 a.m. In attendance were Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Ms. Susan Gilmore, Mr. Rudolph Foster and Mr. Lee Brock. Absent were Mr. Alan Richelson, Vice Chairman Paul Betbeze, Mr. Joe Manuel and Ms. Jackie Thomas. Also in attendance were Deputy City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

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

MINUTES:

The May minutes were ready to be approved. Ray Adkins made a motion to approve the May minutes. Rudolph Foster seconded the motion. All in favor, the May 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 would be held on Wednesday, July 6, 2022.

OLD BUSINESS:

**BOZA-22-17
KEN FACKLER
2110 WISTERIA DRIVE**

Ken Fackler requests relief from Code Section 38-504 (placement of accessory buildings).

No opposition was present.

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

Ken Fackler addressed the Board. Mr. Fackler said he came better prepared today. He said the majority of his neighbors were okay with his request. He had pictures of what the project was going to look like.

Discussion followed.

Ray Adkins made a motion to approve BOZA-22-17 for the relief from Code Section 38-504 (placement of accessory buildings) based on the topography and that it follows the site plan submitted. Susan Gilmore seconded the motion.

A roll call was taken. Ray Adkins - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes. The motion passed and the case was approved.

NEW BUSINESS:

**BOZA-22-12
ANGLE DAVIS
1503 E. 16TH STREET**

Angle Davis requests a special permit for a group home for mentally challenged adults.

No opposition was present.

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

Susan Gilmore said she needed to recuse herself from this case. At this time, Deputy City Attorney Phil Noblett said the Board has 5 members present to conduct a quorum, however there are not enough members to vote on this case.

Scott McColpin made a motion to defer case BOZA-22-12 to the July meeting because this was the Board's fault due to Board member Susan Gilmore having to recuse herself and not the applicant's fault. Rudolph Foster seconded the motion. All in favor, the motion to defer this to the next month was approved.

**BOZA-22-27
CHRISTINA WILLIAMS/JAY & SUSAN HELTON
799 NORFOLK GREEN CIRCLE**

Christina Williams with Pint Night Construction on behalf of Jay & Susan Helton requests a reduction in rear setback from 25' to 4' for new construction.

No opposition was present.

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

Terrance Jones from Presley Law Firm addressed the Board. Mr. Jones said the setback has changed from what was requested. He said this is the last buildable lot in this subdivision. The property is currently zoned RTZ, which requires a 25' setback. He is now asking for a rear reduction setback of 11'-8". He provided a copy of the survey to the Board and a letter of recommendation from the property owner.

Discussion followed. Resolution Ordinance #12206 was referenced.

Deputy City Attorney Phil Noblett said Sec. 38-567 indicates the hardships that must be in place before the Board can make a decision.

Chairman McColpin said this Board cannot change Homeowner Association rules.

Discussion followed.

Scott McColpin made a motion to approve case BOZA-22-27 for the reduction in rear setback from 25' to 11'-8" for new construction. The hardship is exceptional circumstances put on the applicant for no cause of his own. Lee Brock seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes. The motion passed and the case was approved.

**BOZA-22-28
JOHN FREDERICK
2790 ORTON STREET**

John or Aaron Frederick with Frederick Bros. LLC on behalf of Kudzu Real Estate Holdings LLC requests a reduction in rear setback from 25' to 18' for new construction.

No opposition was present.

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

John Frederick addressed the Board. Mr. Frederick said he is the builder for the owner. He is requesting the setback due to the unusual lot size. There are 10 properties in the neighborhood that have the same setbacks. They are trying to build affordable houses in that neighborhood. He said they do have a permit on this property. The house on the left got moved to 10' and the right side got moved to 7'.

Discussion followed.

Deputy City Attorney Phil Noblett referenced Sec. 38-567. He said this is a small lot in connection with this property. The Board must determine whether or not there are hardships.

Lee Brock made a motion to approve BOZA-22-28 for the reduction in rear setback from 25' to 18' for new construction based on the narrowness of the lot. Ray Adkins seconded the motion.

Discussion followed.

A roll call was taken. Ray Adkins - yes, Rudolph Foster - no, Susan Gilmore - no, Lee Brock - yes, Scott McColpin - no. Chairman McColpin said we did not have a majority of members to vote so the case would have to be deferred to next month.

Scott McColpin made a motion to defer case BOZA-22-28 to next month. All in favor, the motion passed to defer this case to next month.

BOZA-22-29
JAY FLOYD/RIDGE POINT PROPERTIES
740 WOOD GROVE CIRCLE

Jay Floyd with Ragan-Smith on behalf of Ridge Point Properties, LLC requests a reduction in front setback from 15' to 11'-8" for new construction.

No opposition was present.

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

Jay Floyd addressed the Board. Mr. Floyd said he is representing Ridge Point Properties. They are building townhomes in this subdivision. This one lot has a topography issue in the back with a steep slope and also has a lot shape issue. He said it is a paved porch with a roof overhang. He said the steep slope drops about 20'. He said he is requesting 11'-08".

Delaine DeLoach addressed the Board. Mr. DeLoach said he is the owner of Ridge Point Properties. He said if they changed the look of the house it would change the look of the townhomes. He said because of the slope you cannot change it. All the rooflines are joined together. And he further added that because of the firewall you cannot chop off the roofline.

Discussion followed.

Deputy City Attorney Phil Noblett referenced Sec. 38-567 stating that the Board needs to find a hardship.

Ray Adkins made a motion to approve BOZA-22-29 for the reduction in front setback from 15' to 11'-08" for new construction based on the shape and topography. Lee Brock seconded the motion.

Discussion followed. Chairman McColpin said his opinion is that the hardship was created by the applicant.

A roll call was taken. Ray Adkins - yes, Rudolph Foster - no, Susan Gilmore - no, Lee Brock - no, Scott McColpin - yes. The motion to approve failed. A new motion was then made.

Scott McColpin made a motion to deny BOZA-22-29 based on the fact that there is no hardship. Susan Gilmore seconded the motion.

A roll call was taken. Ray Adkins - no, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes. The motion to deny was approved and the case was denied.

BOZA-22-30
QUASHAUNDA HUGHLEY
4505 FAIRWOOD LANE

QuaShaunda Hughley requests a special permit for a daycare.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said received a lot of emails opposing this request. A petition from the neighbors opposing this request was also submitted.

QuaShaunda Hughley addressed the Board. Ms. Hughley said for the record on the checklist she misunderstood the employees and she thought it was parents at one time. She said the 5 should be changed to 2. She said she is trying to open a childcare center. She does not see an issue and does not believe the traffic is bad there. The entire place is fenced in. The playground area is closed off from the pool.

Discussion followed.

Chairman McColpin said he cannot support this request.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said as far as a circulation drive that is something that could happen. There is a slope in front of the house and there is not a lot of parking in front.

Deputy City Attorney Phil Noblett said the applicant had to provide a site plan showing proposed use, landscaping and a parking plan. He said she had an option to defer for a month or the Board could act today.

Rudolph Foster made a motion to deny BOZA-22-30 for the request. Susan Gilmore seconded the motion.

Discussion followed. Mr. Foster and Mr. Brock commended the applicant for trying to open a business.

A roll call was taken. Ray Adkins - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes. The motion to deny was approved and the case was denied.

BOZA-22-31
MELLISSA MCKIBBENS
4521 PECKINPAUGH DRIVE

Mellissa McKibbens requests a special permit for a daycare.

No opposition was present.

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

Mellissa McKibbens addressed the Board. Ms. McKibbens said she is trying to open a group daycare home. She said she was approved for 11 children. She said her husband recently died and she realized that she enjoyed watching the children when she had a daycare.

Discussion followed. Parking issues were pointed out.

Jason Collins of 4522 Peckinpaugh Drive addressed the Board. Mr. Collins said he lives right across the street. His issue would be parking, traffic and where his driveway is right in front of her house. He said if anyone parks on the street they will have to pull into their neighbor's house to come out. He said it is a very narrow street.

Rudolph Foster made a motion to deny BOZA-22-31 for the special permit. Susan Gilmore seconded the motion.

A roll call was taken. Ray Adkins - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes. The motion to deny was approved and the case was denied.

Mr. Foster encouraged the applicant to keep trying to open a business. Mr. Brock told the applicant with 7 children she would not need a permit.

OTHER BUSINESS:

Elections:

Scott McColpin said he wanted to be the Chairman for another year.

Susan Gilmore made a motion to nominate Scott McColpin to be the Chairman. All in favor, the motion was passed.

Paul Betbeze had previously told Mr. McColpin that he would be happy to continue in his position as Vice Chairman.

Ray Adkins made a motion to keep Paul Betbeze as Vice Chairman. All in favor, the motion was passed.

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 6, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on July 6, 2022, at 10:00 a.m. In attendance were Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Ms. Susan Gilmore, Vice Chairman Paul Betbeze, Mr. Rudolph Foster, Mr. Joe Manuel, Mr. Lee Brock and Ms. Jackie Thomas. Absent was Mr. Alan Richelson. Also in attendance were Deputy City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

Staff members in attendance were Inspector Randy Ridge, Zoning Inspector II, Mr. Shannon Mikus, Transportation Designer and Ms. Karna Levitt, Landscape Architect. Ms. Lori Roberson, Court Reporter, was present and took transcription of the proceedings.

MINUTES:

The June minutes were ready to be approved. Ray Adkins made a motion to approve the June minutes. Rudolph Foster seconded the motion. All in favor, the 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 would be held on Wednesday, August 3, 2022.

OLD BUSINESS:

**BOZA-22-12
ANGLE DAVIS
1503 E. 16TH STREET**

Angle Davis requests a special permit for a group home for mentally challenged adults.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said there was some discussion of whether this is a protected class.

Deputy City Attorney Phil Noblett said if it is, it needs to be licensed by the Mental Health Board and there has to be an inspection from the State Fire Marshal.

Susan Gilmore said she needed to recuse herself from this case.

Angle Davis addressed the Board. Ms. Davis said she lives in Alabama although she has a residence here in Chattanooga. She said she has been in business since 2011. She has rented a group home in Chattanooga out of a residential basis on a 24 hour supervision. She has not been shut down but wants to relocate. The owner of the home where she was currently running the group home wanted to sell the property. She wants to open a location where it once was a group home. The residents there are women over 50 years old with mental health problems. They can take care of themselves although they need someone to cook 3 meals a day for them since they are not allowed to cook. They pretty much take care of their own daily needs.

Discussion followed.

Deputy City Attorney Phil Noblett said there is a requirement under State law to provide for physically and mentally disabled persons. We are talking about the State Code that deals with 8 people living in a residential home with up to 3 caregivers under State law. There are new provisions as well under State law with how that works. There will not be any parking issues and there should also be something contingent on the State Fire Marshal's office approving the plan.

Lee Brock made a motion to approve the special permit for a group home for BOZA-22-12 contingent on the Fire Marshal's inspection and approval. Jackie Thomas seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was approved.

**BOZA-22-28
JOHN FREDERICK
2790 ORTON STREET**

John or Aaron Frederick with Frederick Bros. LLC on behalf of Kudzu Real Estate Holdings LLC requests a reduction in rear setback from 25' to 18' for new construction.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said this was deferred from last month.

John Frederick addressed the Board. Mr. Frederick said he was issued a permit and it was discovered that it had an 18' setback written down instead of 25' in the permit application process. He said there are 2 locations on the permit where you write down the setback and on one he put 18' and the other one he put 25'. He is asking for forgiveness for his mistake.

Discussion followed.

Deputy City Attorney Phil Noblett said the conditions for Board decisions are in Sec. 38-567. The Board has to determine if there is a hardship. This is a small narrow lot. This is a new structure and it is not an extension here.

Lee Brock made a motion to approve BOZA-22-28 for the reduction in rear setback from 25' to 18' based on the narrowness of the lot. Ray Adkins seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - no, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - no: The motion passed and the case was approved.

NEW BUSINESS:

**BOZA-22-23
DONNA SHEPHERD/RICHARD BACHUS
1040 GIVENS ROAD**

Donna Shepherd with AD Engineering on behalf of Richard & Eloise Bachus requests relief from Section 38-44 (Minimum Lot Frontage).

No opposition was present.

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

Donna Shepherd with AD Engineering addressed the Board. Ms. Shepherd said she is with AD Engineering and is a consultant for this project. This property was recently rezoned from R-1 to R-3. The property is R-3 now and they would like to do a horizontal property regime project, which is all one lot even though it looks like a subdivision. This is an existing non-conforming condition. It says in R-3 you should have a 60' lot frontage on the sewer. A standard ROW is 50' and it is going to look like a subdivision. It has a 50' frontage in its existing non-conforming condition.

Discussion followed.

Karna Levitt, Landscape Architect addressed the Board. Ms. Levitt said in the Landscape Ordinance, single family detached homes on their own lot are exempt from the Landscape Ordinance. That is not the case here. If this proposed product was allowed to be used and constructed through the neighboring R-1 zones then no screening is required. With this being an HPR she is not sure it would give them that right.

Deputy City Attorney Phil Noblett said in this case you are dealing with the variance with a normal requirement of 60 to 70 street frontage. This lot was subdivided in 1985 with the street frontage that it had at that time at the time of its existence. The only change in that regard is the use that is being allowed by conditions here by the City Council, at this point and time. There is definitely a peculiar issue here with the width of the entrance to this property, which has been in that same position for residential or any other use since that time when the lot was created. Regarding this, this is a peculiar hardship practical difficulty that would apply to the land regardless of the owner. In this case, it was not created by the applicant. The only changes regulated to the inside would be the units that would be filled according to City building plans. The Board needs to decide if there is a hardship according to Sec. 38-567.

Scott McColpin made a motion to approve BOZA-22-23 for the relief in minimum lot frontage from 60' to 50' based on the peculiar hardships stated due to the plat being previously filed in 1985. Joe Manuel seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case is approved.

A 10 minutes break was taken at this time to switch out attorneys. City Staff Attorney Kathryn McDonald replaced Deputy City Attorney Phil Noblett.

The meeting resumed.

BOZA-22-32
JAY MURPHY/J & B DEVELOPMENT LLC
7353 LEE HIGHWAY

Jay Murphy with Pet Quest on behalf of J & B Development LLC requests a special permit for a dog boarding and grooming facility.

No opposition was present.

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

Jay Murphy addressed the Board. Mr. Murphy said he was the owner of Pet Quest. He is currently in business down the street and they are looking at taking this property that used to be a veterinarian's location. They are going to build on this property for a new boarding/grooming and daycare facility. They will have some outdoor runs. Their hours will be from 7:00 a.m. to 7:00 p.m. He said the dogs will stay overnight but they will be walked one at a time so no barking will be going on. The neighbors are a Dollar General, mini storage and a friend of his who is on board with this.

Discussion followed.

Paul Betbeze made a motion to approve BOZA-22-32 for the special permit for a dog boarding and grooming facility. Jackie Thomas seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Susan Gilmore - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was approved.

BOZA-22-33
JEREMY MOORE/KERRI SHOEMAKER/STANLEY
7102 LESLIE DELL LANE

Jeremy Moore with Jem Works on behalf of Kerri Rebecca Shoemaker and Aaron Stanley requests relief from Section 38-504 (Placement of Accessory Structure) for a pool that projects over a yard on a corner lot.

No opposition was present.

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

Jeremy Moore addressed the Board. Mr. Moore said he is the contractor on this project. He said the customer would like a pool. He has a beautiful lot and unfortunately the only place that is flat is on that back corner that extends 8' past the corner. There is a drainage, utility and sewer easement there, and also there is an 8' elevation change. The only flat spot is where it is dedicated to the pool. They would have to address the drainage issues if they tried to move the pool perpendicular.

Discussion followed.

City Staff Kathryn McDonald said she is reviewing Section 38-504. From her review she does not see where a hardship is required in the Code.

Scott McColpin made a motion to approve BOZA-22-33 for the relief from Section 38-504 (Placement of Accessory Structure) by allowing the pool to be on the side yard by no more than 8'. Ray Adkins seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case is approved.

**BOZA-22-34
DULCE SANCHEZ/CADAS
2104 E. 12TH STREET**

Dulce Sanchez with Robert Roberts, LLC on behalf of Council for Alcohol & Drug Abuse Services, Inc. requests reduction in off street parking spaces from 8 to 4, and a reduction in rear setback from 25' to 0'.

No opposition was present.

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

Robert Roberts, General Contractor addressed the Board. Mr. Roberts said they had a presubmittal meeting with the City based on a new facility. This is currently a sober living facility operating since 1995. They were told they should have a protected class status for this that would help them with some of the zoning regulations. Based on previous halfway houses throughout the area, this would qualify as such and that was the basis for the application. So they applied to get a protected class status for a facility that has been operating under such for almost 30 years. They did ask for the rear setback reduction from 25' to 0' in order to add 4 apartment complexes in the rear.

Discussion followed.

Lee Brock made a motion to approve BOZA-22-34 for the reduction in rear setback from 25' to 0' and a reduction in off-street parking from 8 to 4 spaces. Ray Adkins seconded the motion.

Discussion followed.

A roll call was taken. Ray Adkins - yes, Susan Gilmore - no, Paul Betbeze - no, Joe Manuel - no, Rudolph Foster - no, Jackie Thomas - no, Lee Brock - no, Scott McColpin - no: The motion to approve was denied. Therefore a new motion was made.

Scott McColpin made a motion to deny BOZA-22-34 for the requests. Paul Betbeze seconded the motion.

Discussion followed. At this point, Mr. Roberts requested to withdraw his case.

Scott McColpin withdrew his motion to deny this case. Paul Betbeze concurred.

Scott McColpin made a motion to withdraw BOZA-22-34 without prejudice. Paul Betbeze seconded the motion. Rudolph Foster said no. The case is withdrawn without prejudice.

Another 5 minute break was taken to switch out attorneys. Deputy City Attorney Phil Noblett took over.

The meeting resumed.

**BOZA-22-35
REGINALD JORDAN
4002 DORRIS STREET**

Reginald Jordan requests a special permit for a duplex on a lot of record.

No opposition was present.

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

Reginald Jordan addressed the Board. Mr. Jordan said he is the general contractor and the lot owner. He purchased this lot about 2 weeks ago. They are partnering with the church two doors down to build senior housing. Right now there is an epidemic of affordable housing but no one is thinking about elderly people. So they decided to build low income housing for elderly people so that they do not become the next homeless population.

Discussion followed.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said there is not a standard for unopened alleyways. They just ask the engineer for the project on whatever level of improvement there is, that they show the level of traffic that is commensurate with them.

Deputy City Attorney Phil Noblett said the Board has the authority to make a decision on this according to Sec. 38-567.

Scott McColpin made a motion to approve BOZA-22-35 for the special permit for a duplex on a lot of record. Paul Betbeze seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case is approved.

**BOZA-22-36
DONNA SHEPHERD/JW HOLDINGS GP
1300 BENNETT AVENUE**

Donna Shepherd with AD Engineering on behalf of JW Holdings GP requests a special permit for a dog daycare and a parking variance.

No opposition was present.

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

Donna Shepherd with AD Engineering addressed the Board. Ms. Shepherd said this is for a grooming and daycare boarding facility. They are using an existing building. They would like to request a reduction of 100' on the outdoor play area. They are not changing the footprint of the building.

Discussion followed.

Tyler Keith, owner of Camp Bow Wow addressed the Board. Mr. Keith said he currently owns and operates a Camp Bow Wow in the Nashville market. He sees about 100 dogs a day. About 75% of them are drop offs. It is a 30 to 90 second drop off and pickup. Most of his employees are ages 15-22 and most of them do not drive. They separate dogs by size just to be safe. All play yards are indoor and the outdoor and the outdoor is turf. They offer overnight care. No employees stay on site overnight. They adhere to the dogs being outside from 7:00 a.m. to 7:00 p.m. It is strictly daycare and no parents hang out there. There are camera sensors overnight to watch the animals. With a human in the buildings animals do not rest as much. If there is a problem, the alarms go off with the Police and Fire and the first person closest to the facility will be notified.

Discussion followed.

Lee Brock made a motion to approve BOZA-22-36 for the special permit for a dog daycare and parking reduction from 17 spaces to 7 spaces. Jackie Thomas seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - abstained, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - no: The motion passed and the case is approved.

BOZA-22-37
BRAD RUSSELL/JOLENE HATFIELD
5468 OLD HIXSON PIKE

Brad Russell with Estes Russell Engineering, Inc. on behalf of Jolene Hatfield Hixson and Emily Bird Hixson requests a reduction in required off-street parking spaces from 29 to 17 spaces.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said the applicant requested to withdraw his request. CDOT was able to staff approve this request.

Scott McColpin made a motion to withdraw without prejudice BOZA-22-37. Paul Betbeze seconded the motion. All in favor, the motion passed to withdraw without prejudice.

BOZA-22-38
JENNIFER WISE/SHANTI PARTNERS LLC
7502 SHALLOWFORD ROAD

Jennifer Wise with Grace Construction on behalf of Shanti Partners LLC requests reduction in required off-street parking spaces and a landscape variance (12' landscape screen in lieu of required 20' screen and reduce parking space from 1 per guest room to .85 per guest room).

No opposition was present.

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

Alex Grace with Grace Development addressed the Board. Mr. Grace said he was there on behalf of 3H Group Hotels and Heren Desai. They are developing this property for a mixed use. In the rear will be a Holiday Inn Express. To the north will be office retail. They are here requesting two variances. One is a parking reduction for hotel use and the other one is a landscape screen between 2 separate uses. He said the hotel industry has changed over the past 10 years. They no longer require the parking spaces that are written in the Ordinance. They are developing 155 rooms so it is about a reduction in 23 parking spaces. They believe the parking is adequate for their business to the way the market is today. They do not pose any hardship to their neighbors. They have 100% guarantee on their hotel that they have the parking. They will provide a 25' landscape buffer The development to the west is a professional office building, which is zoned R-4. When you have two different zones you must provide a landscape screening. When you have 2 different zones you are required to have a 20' buffer. The hardship is the site has a screen buffer and they must maintain that buffer from that stream. They have pushed the hotel to the north of that buffer. And then they are showing a 20' sewer easement. The hardships are the stream buffer and the sanitary easement. The existing neighbors have an 8' landscape buffer. They would provide 12' so the sum would be 20'. This being a hotel use, they will landscape it.

Discussion followed.

Deputy City Attorney Phil Noblett said there are hardships on the development. One being a stream buffer to the rear, a sewer line in the middle of the property and the aspect of space to be able to handle the parking is something the Board has to look at. It also looks like there is alternate space above the sewer line to be able to park on.

Scott McColpin made a motion to approve BOZA-22-38 for the reduction in the landscape screen from 20' to 12', as shown on the site plan provided it is double planted, also grant the reduction in the parking from 1 per room to .85 per room only for the hotel parking, not a reduction for the entire tract of land. Paul Betbeze seconded the motion.

Discussion followed.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - abstained, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was approved.

A 10 minute break was taken at this time.

The meeting resumed.

BOZA-22-39
CLAUDIO COSTA/PAUL CRUTCHFIELD
201 MCFARLAND AVENUE

Claudio Costa with Rondon Construction on behalf of Paul & Jessica Crutchfield requests a variance to extend 9' of a lanai to the garage creating a weatherproof connection between garage and house.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said the applicant is actually requesting a rear setback from 25' to 5'. The applicant wishes to connect the outbuilding to the house.

Claudio Costa with Rondon Construction addressed the Board. Mr. Costa said he is the builder for the house and also the designer. When he designed the house he was not aware of them having to have a 25' setback because there was a previous house there which they demolished so they used the previous footprint for the garage. When he applied for the permit he was not aware that he could not attach the house to the garage. There is a gap there which is 8' and all he is trying to do is make life easier for his client.

Discussion followed.

Deputy City Attorney Phil Noblett said Section 38-567 controls the powers of this Board. The Board must find the following conditions: existing narrowness, shallowness or shape of the property or by reasons of exceptional topography of the property etc. to grant a variance. The relief cannot be a detriment to the public good. This also cannot be created as a result of an act of the applicant.

Paul Betbeze made a motion to deny BOZA-22-39 for the request to extend the 9' lanai due to the fact that there is no hardship. Joe Manuel seconded the motion.

Discussion followed.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion carried to deny and the case is denied.

BOZA-22-40
SAMUEL WILLIAMS/CHARLES O' CONNOR
1504 ANDERSON AVENUE

Samuel Williams with Mockingbird Build on behalf of Charles O' Connor and Margaret An Carruth requests a reduction in rear setback from 25' to 12' to add a roof to the existing deck.

No opposition was present.

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

Samuel Williams with Mockingbird Build addressed the Board. Mr. Williams said he was the general contractor for the client. He said they have replaced the deck because it was rotting at the connection of the house. It will be in the same footprint and they want to add a roof and screen it in. The hardship would be an odd lot size. It is a 70' deck.

Discussion followed.

Deputy City Attorney Phil Noblett said there is one exception that we have not talked much about. Because under Sec. 38-567 it talks about a variance that only deals with additions and extensions to an existing structure. The Board may allow that variance because it is no less non-conforming than existing structures or structures on adjacent properties and that is one condition that you did not have before.

Lee Brock made a motion to approve BOZA-22-40 for the reduction in rear setback from 25' to 12' based on the fact that it is no less non-conforming and this only applies to the deck area. Jackie Thomas seconded the motion.

Discussion followed.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion carried to approve and the case was 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 3, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on August 3, 2022, at 10:00 a.m. In attendance were Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Mr. Alan Richelson, Vice Chairman Paul Betbeze, Mr. Rudolph Foster, Mr. Joe Manuel, Mr. Lee Brock and Ms. Jackie Thomas. Absent was Ms. Susan Gilmore. Also in attendance were Deputy City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

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

MINUTES:

The July minutes were ready to be approved. Ray Adkins made a motion to approve the July minutes. Alan Richelson seconded the motion. All in favor, the 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 would be held on Wednesday, September 7, 2022.

NEW BUSINESS:

**BOZA-22-41
TYQUAL MCGOWAN
408 HANEY DRIVE**

Tyqual McGowan requests a special permit for a daycare.

Opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said he received a lot of emails opposing this variance. He wondered if since the sign was in a window if this case could even be deferred but Deputy City Attorney Phil Noblett said if the opposition was willing to waive the Code problem then that would be fine. Mr. Richelson said in this particular case you could see the sign from the street. It was determined that most people got constructive notice and the case could be heard today.

The applicant was not present.

At this time, the opposition was heard since everyone took the time to show up.

Richard Johnson of 17 S. Sweetbriar Avenue addressed the Board. Mr. Johnson said he lives in the footprint of the Belvoir Neighborhood Association. He is also the President of the Neighborhood Association and he is here today to state their concerns about this special permit. But before he does that he would like to introduce Melinda Hickey who has been in the neighborhood for 47 years. He said the Brainerd Neighborhood Association has been established as one of the largest neighborhood associations in the City for 35 years.

Melinda Hickey of 312 S. Sweetbriar Avenue addressed the Board. Ms. Hickey said she has lived there for 47 years. She said they are a highly organized neighborhood and probably one of the oldest neighborhoods in Chattanooga. They have 500 homes and receive many grants from the City and County. She said they have participated in the Round Table. They have a bluebird trail with 30 different bluebird houses. They have a 4th of July picnic with up to 175 people in attendance. They have music, barbecues that are catered and a bike parade for the kids where the Police and Fire attend. She said they are a very diverse neighborhood. She said at one time a developer was trying to come into the neighborhood and build duplexes and take some of the larger houses to make apartments out of them and the neighborhood did not want that. They wanted their neighborhood to be zoned R-1, which is family residences. So they got it rezoned R-1. The developer sued them and the City of Chattanooga. That was in 1989 and they spent 3 days in court, of which they won the case. She said they are still a viable and active neighborhood. Ms. Hickey said she works closely with the Police Department on the broken window theory where if you keep your neighborhood up, it stays like you want it. She said they have dues, which is \$25.00 a year and is not mandatory. They have Christmas caroling every Christmas. The Lookouts bring their trolley out there for them. They have a bonfire, roast marshmallows, hot chocolate and sing carols to the shut-ins in the neighborhood. They are a strong, cohesive and stable neighborhood and they reward everyone who tries to help them. They have a big Green Team, Committees and a Board of Directors and officers. They have an annual meeting coming up held at the BX every year if anyone would like to attend. This is where they introduce their new Board and officers. They also have Bylaws and are very organized.

Richard Johnson addressed the Board again. Mr. Johnson said they had 4 primary concerns. He had 4 pictures that he distributed to the Board members. First, the location of 408 Haney Drive is located in the footprint of the neighborhood. There are no businesses around it whatsoever. It is not on an access road. There are actually a few vacant buildings within a 6 block radius of 408 Haney Drive. Second, since Haney Drive is a more narrow street, they are concerned about parking, drop off and pickup for children. Looking at the application and pictures, the applicant said they can get 6 parking spaces there, but he took a picture and said you would be lucky to get 3 in there. Third, on the side, the applicant said they could get 4 parking spaces in there, but it is a very short driveway. Fourth, the applicant said they would make it a 24 hour service and they feel it would impact the quality of life on either side.

Deputy City Attorney Phil Noblett said the Board is looking at this regarding the provisions under the R-1 residential zone that states a daycare has to have a special permit under this Board's authority. The Board's authority under the Code is limited to situations where you believe there is a special exceptions permit that would be warranted for this particular use under these circumstances. The Board's jurisdiction allows you to issue a special permit but you have to have certain conditions before you can do that. It has to be based on the site plan that has been provided by the applicant and supporting document. The Board has to determine that the proposed use will not be in conflict with the adopted plans and zoning districts after consulting with the departments and reviewing all plans of parking, unloading, egress and ingress of all facilities in the Building Code under Sec. 38-568.

Mr. Richelson said he wanted to disclose that his home is 9/10ths of a mile away from this location and he does not think it will affect his thoughts on this case. He had a discussion with the neighbors on the process and procedures so that they are more efficient. He is not recusing himself from this case.

Discussion followed.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said there is a parking requirement for Table 1700 for Daycares based on the number of children and employees. There was sufficient parking conceptualized but it was not able to be shown how that would fit on the site under the inclusion of off-street parking.

Discussion followed.

Mackenzie Chastain of 409 Haney Drive addressed the Board. Mr. Chastain said he lives across from the applicant. They have been in this home for just a little over 3 years. He said they have no issues with daycares with the City, and as a parent himself he understands the need and struggles with childcare. He said he understands the intention. He thinks there were skirted issues, including that the applicant is a tenant of a rented property. He contacted the owner of the property and the owner was unaware that the tenant had vacated the property for a greater period of 6 months. The property was vacant and overgrown. The landlord was also unaware that the tenant applied for this special permit. Mr. Chastain said he became suspicious and decided to write a letter to the Board expressing the concerns.

Charles Paty of 306 S. Sweetbriar Avenue addressed the Board. Mr. Paty said he came to the meeting today because he is in support of everything that has been said but also because the man on the Belvoir side said if he does not get approval for this he will turn the at-risk children he works with loose in the neighborhood. Mr. Paty said the man is threatening them and that is why he is here.

Ms. Thomas said if the children were at-risk children and the man did let them loose unsupervised on the street, the man could be reported to the agency.

Alan Richelson made a motion to deny BOZA-22-41 for the special permit for a daycare. Ray Adkins seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion to deny was accepted and the case was denied.

Inspector Ridge wanted to explain the City Zoning Ordinance Daycares and what could happen. He said a daycare center requires a special permit from this Board. A daycare home is a permitted use in an R-1 zone. It requires no special permit. A daycare home regulates hours and number of children that can receive care. You can have no more than 7 children under the age of 17. He said by right, this individual can open up a daycare with 7 children every day unless you get your City Councilperson to write additional language to the Code.

BOZA-22-42
MARK SCOTT/MARCUS PHAN
7847 TOWNSEND ROAD

Mark Scott on behalf of Marcus Phan requests relief from Code Section 38-25(a) - Lots required to front a public street for new construction.

Opposition was present.

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

Mark Scott addressed the Board. Mr. Scott said he lived at 7407 Twinbrook Drive and he was the contractor for his client. He said before his client purchased the property he called the City to make sure it was okay to put a townhouse there and the City said yes. They were in the process of getting it permitted when the Land Disturbance Department told him to put a stabilizer around it before they started building. He said it does have a sewer line on the street, water, electrical, 4 houses in the back and a gravel driveway. It even has a street name. Before he purchased the property, they said it was okay to put something there. They were getting ready to start building when they got a letter from the Land Disturbance Department that said something about the Code, saying it was a ROW and they had to get a variance before they could start building.

Discussion followed.

Inspector Ridge referenced Sec. 38-25 - Lots to front street.

Deputy City Attorney Phil Noblett said unless you have 15 feet you cannot change the Code. This is not a street that normally you would be able to get a Fire truck or a garbage truck through. He said if you cannot get a garbage truck, Fire, Police or ambulance through there then you do not have enough room. You have to have enough width to access the property. He said emergency vehicles do not like going on private drives because most times they are too wide and they end up damaging the property, which makes the City liable and the taxpayers have to pay for it.

Don Schmidt of 7817 Townsend Road addressed the Board. Mr. Schmidt said he lives at the very back house. He said 50 years ago it was a family thing and all of them lived there. The only ROW that was there was Jenkins Road. He said now there is just a 10' ROW that no one maintains. There is a vacant lot on the right and left side and that is not a private street. He said they changed it to a private drive. It is all rental property there and he is the only one now that lives there. He said the driveway has ruts so deep and no one does anything about it. You have the water line that runs straight through there and it is only 10'. There is one lot that is a locked-in lot and there is no ROW there, but they use the ROW to it. It is not a 25' street.

Discussion followed.

Mr. Scott said he would like to withdraw his case without prejudice.

Scott McColpin made a motion to withdraw without prejudice BOZA-22-42. Paul Betbeze seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion to withdraw without prejudice was passed and the case was withdrawn without prejudice.

BOZA-22-43
TREVOR HARRISON
911 S. WILLOW STREET

Trevor Harrison on behalf of Jerry S. Harrison Trust requests a reduction in left side setback from 16' to 3.5' to build a deck.

No opposition was present.

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

Trevor Harrison addressed the Board. Mr. Harrison said he lived at 2008 E. 12th Street. He said his mom passed away in 2020 and they are trying to renovate her house. They would like to add a 3rd bedroom because his dad and sister live there and it is awkward to have to go through a bedroom to get access to the other part of the house. He said the front porch is rarely used because of the traffic on S. Willow Street.

Discussion followed.

Jackie Thomas made a motion to approve BOZA-22-43 for the reduction in left side setback from 10' to 3.5' to build a deck based on the unusual lot size and this applies only to the deck addition. Paul Betbeze seconded the motion.

A roll call of the votes was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - abstained, Rudolph Foster - yes, Alan Richelson - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion was passed and the case was approved.

OTHER BUSINESS:

Chairman McColpin said the ethics training class would be conducted at the conclusion of the next Board meeting. He encouraged the Board members to make every effort to be in attendance next month.

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
SEPTEMBER 7, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on September 7, 2022, at 10:00 a.m. In attendance 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. Lee Brock and Ms. Jackie Thomas. Also in attendance were Deputy City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

Staff members in attendance were Mr. Randy Ridge, Zoning Inspector II, Ms. Karna Levitt, Landscape Architect, Mr. Shannon Mikus, Transportation Designer and Mr. Caleb Fisher, Transportation Review Specialist. Ms. Lori Roberson, Court Reporter, was present and took transcription of the proceedings.

MINUTES:

The August minutes were ready to be approved. Ray Adkins made a motion to approve the August minutes. Alan Richelson seconded the motion. All in favor, the 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 would be held on Wednesday, October 5, 2022. He said that since there is a lot of opposition here today for BOZA-22-54 he would move this case to the top of the Agenda.

NEW BUSINESS:

**BOZA-22-44
LONDON KENNEDY
1402 CEMETERY AVENUE**

Landon Kennedy requests an interpretation of the regulation (Building Separation Requirement).

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. Section 38-207 of the Building Code (building separation in the UGC zone) was referenced.

Deputy City Attorney Phil Noblett said under Sec. 38-563 we are hearing from property owners by actions by an administrative official.

Thomas Scott Smith of 1426 Williams Street addressed the Board. Mr. Smith said he was the architect for the property. He said in order to separate those buildings, he would lose 20% of the buildable area. He has seen this same Code in several cities and it is always followed by the phrase "buildings on the same lot". He said when you are looking at urban infill he sees it as a huge problem.

Discussion followed.

Deputy Chief Phil Noblett said this is a different zone. The intent of the UGC is to deal with more traditional urban development in multi-story buildings with mixed uses and sidewalks. He read from the Code. A part of Section 4 was also read. He said clearly if the building is there it is a

non-conforming legal use as it sits in connection with this. Under Sec. 38-567, the Board deals with this all the time. The Board may allow such addition or extension if the addition is no more less non-conforming than the existing structure. He said UGC is the comprehensive zoning plan for this area. It has to meet those Fire Code requirements before it can be approved.

Discussion followed.

Lee Brock made a motion to approve BOZA-22-44 for the continuation of the right side setback to 0' lot line based on the fact that it is no less non-conforming to the existing building. Alan Richelson seconded the motion.

Discussion followed. Mr. Richelson said they are not ruling on the interpretation.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - no, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - no, Scott McColpin - yes: The motion passed and the case is approved.

**BOZA-22-46
DANIEL SEIDEL
7506 STANDIFER GAP ROAD**

Daniel Seidel requests a special permit for a cell tower.

No opposition was present.

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

Attorney Brad Davis with Chambliss Bahner addressed the Board. Mr. Davis said he was here on behalf of the applicant Vogue Towers. He said Daniel Seidel, who was the applicant, is an agent for Vogue Towers and wanted to state that fact. He said Michael Sandifer who is intimately familiar with the project was here as well. Vogue's CEO was supposed to be here today but could not make it so he is pinch hitting for the CEO on short notice. Mr. Davis said he is familiar with the issues since he has represented Vogue Towers for years and has talked to the CEO about this project.

Michael Sandifer addressed the Board. Mr. Sandifer said he was the project manager for Vogue Towers. This is an overflow parking lot for the church, which is a combination of grass and gravel. He said they did not show landscaping to the back because it is all wooded vegetation. The house that sits alone is the staff office for the church across the street.

Karna Levitt, Landscape Architect addressed the Board. Ms. Levitt said there is a required stream buffer that needs to be protected during construction immediately south of this so they will not be allowed to disturb further south than the general area that they've shown as their fence line.

Discussion followed.

Deputy City Attorney Phil Noblett said in 2014 he was involved in drafting this documentation. He asked Mr. Sandifer what type of colocation he would have on this structure.

Mr. Sandifer said the site is designed for a minimum of 3 wireless carriers. There is also broadband, which takes a lot less space. Vogue Towers is a vertical property management company. They try to provide multi-provider facilities. The tower will be designed so that it will not fall on the property. He said it is a monopole concrete foundation in the ground.

Scott McColpin made a motion to approve BOZA-22-46 for the special permit for a cell tower subject to the checklist. Paul Betbeze seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was approved.

**BOZA-22-49
JOHN SWEETON
1004 NORMAL AVENUE**

John Sweeton requests a reduction in rear setback from 25' to 4' and a reduction in front setback from 15' to 9' for new construction.

Opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said the applicant requested to defer to October.

Since there was opposition present at today's meeting, Chairman McColpin allowed the opposition to speak for the record.

Laura Sewell of 1010 Normal Avenue addressed the Board. Ms. Sewell said she also owns 1006 Normal Avenue, which is adjacent to the property. She said she and her husband own the lot adjacent to the applicant's lot. All 3 of the properties were sold by Paul Shehan. They bought their house in 2020. When they bought the property they found there was a history with these lots. There were 2 BOZA hearings for these lots in June and August of 2019. She listened to the recording and it was clear to her that the Board was going to vote no. So Mr. Shehan withdrew his requests. What was said in summary of those cases due to the size and shape of the lots, the variances would not be granted. The lots are very steep. She said Mr. Sweeton was trying to sell the lot and double what he bought it for. When he was preparing to clear cut the lot, in good faith she shared the audios of those meetings with him because she and the neighbors wanted to pool their resources together to buy the lot so that they would not have to keep coming back to do this. She said Mr. Sweeton said it was worth it to pay the \$135,000 even though he bought it for \$60,000 for the lot but she and the neighbors could not afford to pay the inflated price of the lot. But they did make him an offer of \$60,000. She thought that maybe he did not do his due diligence before buying it. She said they do not want the integrity of their neighborhood compromised. Mr. Sweeton cut the trees down and listed it for \$135,000 and it has not sold, and has since lowered it to \$110,000. Ms. Sewell said by granting this variance, it will break the pattern of the neighborhood in a dramatic way and will devalue the neighboring properties in this neighborhood and they should not have to bear the costs of him not doing his due diligence. She said many neighbors are in opposition to this request.

Margie Amanda Cook of 1002 Normal Avenue addressed the Board. Ms. Cook said she listened to those two hearings as well. She is concerned if these variances are approved it would set a precedent for people to operate outside of boundaries that are created to protect their neighborhood. She is concerned with curbside value, appraisal value with the diminishing area if those trees are gone, over exposure in close proximity. She is concerned about the hardship claims. She spoke to Mr. Sweeton's realtor and offered him what he paid for the property hoping he would not cut those trees down but he did anyway. She is concerned with Mr. Sweeton's history of how he cut down the trees and lack of consideration for the neighborhood.

Todd Doman of 526 Crewdson Street addressed the Board. Mr. Doman said he was here at both previous zoning hearings two years ago. His concern is that it is a steep slope to a short backyard. In the time since the trees were cut, his basement has gone from dry to a musty smell. And he is concerned if a structure is built and water is dumping in his backyard, he would have foundation issues. He wants to know what Mr. Sweeton's plans are for water dumping into his yard.

Scott McColpin made a motion to defer BOZA-22-49 to the October meeting. Paul Betbeze seconded the motion.

Discussion followed. Chairman McColpin said we have heard this case from a different owner.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - no, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was deferred to the October meeting.

At this time Board member Joe Manuel left the meeting.

**BOZA-22-50
DONNA SHEPHERD
1100 LUPTON DRIVE**

Donna Shepherd requests a landscape variance for the UGC zone.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. This is the Riverton Development. Ms. Shepherd was granted a variance for this request but that was granted over 2 years ago.

Donna Shepherd addressed the Board. Ms. Shepherd said there has been a change in the UGC. She has talked to Councilwoman Hill and she was on board with it. She has also been in contact with Fairfax Heights and the Lupton City Joint Homeowners Association and they all do not have a problem with this. She said her requests are the following: (1) to have no street edge along Lupton Drive, along the park areas where ROW is not fronted by a building and in areas where a building is set back from the ROW greater than 15' - Sec. 38-210(1); (2) no Type C landscape screen between UGC and R-1 - Sec. 38-210(3), which was previously approved by BOZA; and (3) no expiration date for any approved variances – Sec. 38-569(2). This will be developed over time. She would like an extension of the variances granted to be up to 5 years with the option to renew.

Discussion followed.

Deputy City Attorney Phil Noblett read from Sec. 38-569(1).

Discussion followed.

Paul Betbeze made a motion to approve BOZA-22-50 for the landscape variances from the UGC zone in Riverton Village, and that would include no street edge required in front of the buildings, and areas where buildings are set back from the ROW greater than 15', as previously approved in the last meeting, on Lupton Drive road frontage, there is no street edge required there, and approval of variances, as shown in the presentation slides, as well as the second variance for no Type C landscape screen required in the UGC and R-1, include the street edge on slide 13, and to extend the expiration date of approval from the 2 years to 5 years. Rudolph Foster seconded the motion.

Discussion followed.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was approved.

**BOZA-22-51
JD JACKSON
3101 E. 44TH STREET**

JD Jackson requests a reduction in rear setback from 25' to 10' and a reduction in front setback from 25' to 10' for new construction.

Opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said this was grandfathered in and is well outside the 100 day window. He said it appears to be a lot of record.

JD Jackson of 1047 Florida Drive addressed the Board. Mr. Jackson said he wants to put another single family home on this lot. It is an irregular shaped lot. Due to the Ordinance change, it changed the setbacks and he wants to go back to what it originally was so he can put a single family home there.

Board Member Jackie Thomas had to leave the meeting.

Discussion followed.

Sam Warren, Jr. of 3108 E. 44th Street addressed the Board. Mr. Warren said he lived at the house off and on since the early 60's. The house was there before it was empty. He complained a lot in the past of the drug dealing that was going on there. He wanted to know the parking and size of the house. He said there is no access to the property. It is a pie shaped lot on a corner lot. He said you cannot have any parking on the road. The City will be out this week to put signs up that says no parking on 44th Street. He said there was never a driveway there. The lot is not big for several cars. If you have company there they will be parking on the street. He is not totally against it but wants to know what kind of structure it will be. There is a City water run-off ditch behind the house. The ditch is 4' wide on his property and 5' deep.

JD Jackson addressed the Board in rebuttal. He was wrong in square footage. It was 1197 square feet. The dimensions are the same as shown on the site plan.

Deputy City Attorney Phil Noblett said this Board had the authority to hear this under Sec. 38-567 to consider whether these conditions exist. He read part of the Code that relates to this case.

Susan Gilmore made a motion to approve BOZA-22-51 for the reduction in rear setback from 25' to 10' and a reduction in front setback from 25' to 10' for new construction. Alan Richelson seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: The motion passed and the case was approved.

BOZA-22-52
JASON SMITH
903 LIBERTY STREET

Jason Smith requests a reduction in rear setback from 5' to 3.5' to put a roof over a deck.

No opposition was present.

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

Jason Smith addressed the Board. Mr. Smith said he lives at 903 Liberty Street. He purchased this home as new construction and it was completed last year. The builder did not cover the deck because he told him that he did not meet the setback requirements to cover the deck. So he tried to apply for a building permit with the City and they told him that the minimum setback was 5' from the property line. The property is a little irregular. He spoke to the neighbor about it and he did not have any problems with it. He is asking permission to cover the deck with a shingled roof and was told he needed to have it fire rated.

Discussion followed.

Deputy City Attorney Phil Noblett said based on Sec. 38-567 the Board may allow the extension or addition provided that it is not in conflict with the area that the property is located.

Paul Betbeze made a motion to approve BOZA-22-52 for the reduction in rear setback from 5' to 3.5' for just the portion of the site plan to cover the roof over the deck that already exists. The hardship is the irregular shape of the lot and it is no less non-conforming than other properties in the area. Ray Adkins seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: The motion passed and the case was approved.

BOZA-22-53
BRYCE MORRISON
1558 VANCE ROAD

Bryce Morrison requests relief from Code Section 38-13 (Brainerd Overlay Zone Development Standard Requirement).

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. This is currently a vacant parcel.

Brantly White of 1610 St. Andrews Road, Greensboro, North Carolina addressed the Board. Mr. White said he is the developer and they are under contract on the land to buy. He is part of the ownership group that will buy it. He is looking to develop an apartment community. The site has been rezoned and has spoken with Councilwoman Carol Berz. The biggest issue they have is there is a lot of rock and there is no way for them to develop the site while staying within those closure setbacks to the front and that is the main set of relief.

Barret Hagen, Civil Engineer of 3859 Battleground Avenue, Suite 300, Greensboro, North Carolina addressed the Board. Mr. Hagen said he owns the design company that is doing the civil engineering design. He said they are asking for the buildings to be set further away from it. They are asking for 3 things. He said they are asking for the buildings to be pushed back a little bit. They are asking not to have a maximum setback.

Discussion followed.

Shannon Mikus, Transportation Designer addressed the Board. Mr. Mikus said he has not looked at the traffic count on Vance although it is high. He said he would ask the applicants to consider the secondary entrance, which is part of the Fire Code, to have a second entrance and ask them to consider making it a permanent entrance not just a fire entrance.

Alan Richelson made a motion to approve BOZA-22-53 for the removal of the 26' max building setback, removal of the 8' max storefront requirement and the removal of the 12' bike requirement. Ray Adkins seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: The motion passed and the case was approved.

**BOZA-22-54
JOSH CAIN
1121 LECONTE CIRCLE**

Josh Cain requests a reduction in rear setback from 25' to 10' for new construction in a PUD.

Opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said the applicant is not asking for a setback within the R-1 regulations, he is asking for relief from the residential PUD regulation that requires a 25' buffer. Sec. 38-394 was referenced.

Josh Cain addressed the Board. Mr. Cain said he was here on behalf of Cain Development LLC, the builder on this project. On about 19 lots of that stretch on Leconte Circle, only 3 houses are affected by the boundary setback. This is actually Lot 15 in violation of that setback. He said they had no clue of this. The knoll plat had been amended several times. Blackcreek approved them as well as the City with the setbacks. No one caught it until they got an email from the rear neighbor. They immediately stopped to check on it. Lot 15 is smaller than the others. He said he does not want to diminish any values whatsoever. There is about 30' of elevation change from his house and the hill. He said he would be glad to work with the Council or anyone. He said they normally do not build in a PUD. He said his hardship was that all the other lots have a buffer. These 3 lots do not.

Discussion followed.

There were twelve (12) people in attendance who were in opposition.

Attorney James Hurst, on behalf of Frank May who lives at 514 Kestrel Lane addressed the Board. Mr. Hurst said Mr. May lives behind lots 15 and 16. In this case if there is a hardship it was created by Mr. Cain putting too big of a house on a small lot. He said Mr. Cain was aware of the zoning regulations and would have known about the 25' setback. His property abuts this house to the rear. Before the construction began, Mr. May approached Mr. Cain about buying those lots for a profit over what he paid. He also spoke with Black Creek's attorney about granting any kind of exception of a 25' setback and received an email from Black Creek's attorney that said they did not approve any setback or any variance from the PUD regulations. There was no variance granted on the 2 other lots. He did not see any justification for granting this variance. He said his client has invested millions of dollars in his property. His client wants this builder to do what all the other builders have done.

Frank May addressed the Board. Mr. May said Mr. Hurst was speaking on his behalf. He said they have never lived in a neighborhood and moved the family into Black Creek and made a significant investment. Most of the neighbors here are in the same custom subdivision. When the lot was created, he accepted that the lots were being created. He called Mr. Stone and offered to purchase the lots and Mr. Stone directed him to Mr. Cain. He offered them what he paid for them and Mr. Cain said he needed a certain amount. Mr. Cain reneged on his deal. Mr. May was going to keep the lots empty and not have any lots. This home annexed the backyard. Mr. May said the previous owner had planted trees about 5' from the boundary.

Hale White of 854 Dry Branch addressed the Board. Mr. White said he opposes it for several reasons. He does not think you should be able to build half a house in violation and ask for a variance after the fact. The least responsible person is Mr. May. Most of the hardship will fall on his lap.

Josh Cain addressed the Board in rebuttal. Mr. Cain said he will move the house. He said 15' will not change the trajectory. He does not want to have any kind of confrontation and this is not

the way they conduct business. He would like to withdraw his case without prejudice. He said he will move the house forward 15' and be in regulation with the 25' setback.

Scott McColpin made a motion to withdraw BOZA-22-54 without prejudice. Ray Adkins seconded.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - no, Rudolph Foster - yes, Alan Richelson - no, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed to withdraw without prejudice. The case was withdrawn without prejudice.

**BOZA-22-55
MICHAEL PRICE
1871 MYRTLE STREET**

Michael Price requests relief from Code Section 38-25 (Lots Required to Front Public Streets).

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said this request is the first case that the Board has heard of the type that used to go to the Planning Commission. Sec. 38-25 was referenced regarding lots fronting public streets.

Deputy City Attorney Phil Noblett said the Planning Commission really could not grant a deviation in of itself and said it has to be reviewed by the Board of Zoning Appeals or the City Council.

Derek Blackwood of MAP Engineers addressed the Board. Mr. Blackwood said the deed references the horizontal property regime. He said there is public access to Rossville Avenue. He said they ran into this when they had to show Land Disturbance that they had access to a public road, which is Rossville Avenue. Rossville Avenue has access to the railroad tracks. The intent was always for these roads to be public. He said he is asking for relief that would allow them to sell lots in fee simple for properties that front a private street instead of public streets.

Deputy City Attorney Phil Noblett said there is a requirement in the Code that lots are supposed to front a public street and there are exceptions that are provided under Sec. 38-25 and there are different types of exceptions depending on the type of use involved. He said this Board needs something in writing that says the applicant has access at least 15' wide. He said to make sure it is wide enough to meet the Fire Code.

Discussion followed.

Attorney Barry Abbott addressed the Board. Mr. Abbott said he is the lawyer who created this HPR. He said he does real estate and construction law in Chattanooga. He said they went through a long process with the railroad engineers and got a public crossing agreement. He does not know if it has been recorded. He will go back and get the documentation and supply it to the Board. He said he would think the closing attorney would want it recorded if he wants to insure it.

Discussion followed.

Susan Gilmore made a motion to approve BOZA-22-55 for the relief from Code Section 38-25 (Lots Required to Front Public Streets) contingent that there is a permanent recorded easement across Burnside Place at the railroad crossing that complies with the width requirement of Sec. 38-25. Paul Betbeze seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: The motion passed and the case was approved.

**BOZA-22-56
JOHN PRATT
8776 IGOU GAP ROAD**

John Pratt requests a reduction in left side setback for an addition.

No opposition was present.

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

John Pratt of 8776 Igou Gap Road addressed the Board. Mr. Pratt said this was his residence. He owns 20 acres, 3 mobile homes and 2 houses. He wants to put in a bedroom addition on the mobile home. He said he is requesting a variance for 6.5'. He is adding an 18 x 30' addition.

Scott McColpin made a motion to approve BOZA-22-56 for the reduction in left side setback from 24' to 6.5' for the addition with the hardship being the unusual lot shape. Ray Adkins seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: The motion passed and the case was approved.

**BOZA-22-57
ANDY FLANIGAN
474 LADD AVENUE**

Andy Flanigan requests a reduction in right side setback from 5' to 4.4' for new construction.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. In Chattanooga the cantilever has to meet the setback requirements.

Andy Flanigan addressed the Board. Mr. Flanigan said this is new construction. There is a window in the cantilever, which is 7 inches out too far. It is 6.5' long and 1' out.

Ray Adkins made a motion to approve BOZA-22-57 for the reduction in right side setback from 5' to 4.4' for new construction and this applies to the cantilever area only. Paul Betbeze seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: The motion passed and the case was approved.

OTHER BUSINESS:

None

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



CHAIRMAN

2-Nov-2022

DATE



SECRETARY

11/2/22

DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
OCTOBER 5, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on October 5, 2022, at 10:00 a.m. In attendance were Chairman Scott McColpin presiding, Board members Mr. Ray Adkins, Ms. Susan Gilmore, Vice Chairman Paul Betbeze, Mr. Rudolph Foster, Mr. Joe Manuel, Mr. Lee Brock and Ms. Jackie Thomas. Absent was Mr. Alan Richelson. Also in attendance were Deputy City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

Staff members in attendance were Mr. Randy Ridge, Zoning Inspector II, Ms. Karna Levitt, Landscape Architect and Mr. Caleb Fisher, Transportation Review Specialist. Ms. Lori Roberson, Court Reporter, was present and took transcription of the proceedings.

MINUTES:

There were no minutes to approve.

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 would be held on Wednesday, November 2, 2022.

OLD BUSINESS:

**BOZA-22-49
JOHN SWEETON
1004 NORMAL AVENUE**

John Sweeton requests a reduction in rear setback from 25' to 4' and a reduction in front setback from 15' to 9' for new construction.

Opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said there were several people here in opposition today.

Chairman McColpin said there were some people here today that had to leave who were in opposition to this case, but there were also new ones here as well.

John Sweeton addressed the Board. Mr. Sweeton said he was the owner of the lot and he also had Mr. Bryan Dennis with him here today.

Bryan Dennis, General Manager for Mr. Sweeton addressed the Board. Mr. Dennis said he was the General Manager for the Building Company Mr. Sweeton was working with. Mr. Sweeton had contacted him to fit a house on his property. He said they had been struggling to get some final survey work done. He said there is an abandoned alleyway that juts out an additional 5'.

Discussion followed.

Laura Sewell of 1010 Normal Avenue addressed the Board. Ms. Sewell said she did want to mention that she bought their house in May of 2020. At one time, those two lots were one big lot. Paul Shahan bought the lots and was going to build on those lots. There was a survey done

then. When Mr. Sweenton bought the lots he cut down the trees. She said she thinks the property was surveyed many times. She has had good interactions with Mr. Sweeton and does not have anything against him personally. She said she shared the history of the lots to Mr. Sweeton. The neighbors pooled together to try to buy the lots and they feel that it is a desire to maximize profit on the land. She said she has 7 children and she homeschools them. Several neighbors had a hard time getting here and she will have a hard time coming back although she will do it if she has to.

Kara Mosesso addressed the Board. Ms. Mosesso said she is the owner of 524 Crewdson Street. She closed on the house in July of 2022 and had no knowledge of this. She called about the sign and asked about the hearing today. She has not had the opportunity to talk to Mr. Sweeton and there was no disclosure at her property sale. She said it slopes downward to her property and there are some drainage concerns. There is a history of flooding of that property. She is concerned that any construction or drainage on that property could affect her property as well, and she is concerned about her property value as well.

Deputy City Attorney Phil Noblett said this Board has the authority to hear and rule on cases like this. Applicants may withdraw once without prejudice any time prior to a motion and it does not mention double withdrawals. He read from the Code on the hardships.

Paul Betbeze made a motion to deny BOZA-22-49 for the reduction in rear setback from 25' to 4' and the reduction in front setback from 15' to 9' based on the detriment of the public good, due to potential water run-off. Rudolph Foster seconded the motion.

Discussion followed.

A roll call was taken. Jackie Thomas - yes, Lee Brock - yes, Susan Gilmore - yes, Rudolph Foster - yes, Joe Manuel - yes, Paul Betbeze - yes, Ray Adkins - yes, Scott McColpin - yes: The motion passed and the case was denied.

NEW BUSINESS:

**BOZA-22-60
DONNA SHEPHERD/WSRENEW LLC
2461 E. 18TH STREET**

Donna Shepherd with AD Engineering on behalf of WSRENEW LLC requests a 10 foot type A landscape variance.

No opposition was present.

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

Donna Shepherd addressed the Board. Ms. Shepherd said this is one property but they also have several variances. This is part of the Mill Town project and they have been working on it for a couple of years. All of the property has been rezoned to C-3. It is an industrial area. The limits of this project go from E. Main Street to E. 19th Street, and then from S. Lyerly all the way to the Elementary School, all the way over to Dodds Avenue. One of the goals of the Mill Town project is to provide various housing types. She said they have single family, single family detached, townhomes, multi-family and they also want to provide a diverse price point. CNE is one of the development partners to provide affordable housing.

Deputy City Attorney Phil Noblett said it was his understanding that the applicant did this development in accordance with the deviation provisions, which were allowed in Section 38-235 at the time and that it was sent to the Planning Commission for review. It was passed in August of 2021 and this development was planned and designed in accordance with those standards. The City Council most recently changed those rules to say they should come before this Board instead of the Planning Commission because the Planning Commission does not have authority under State law to make zoning changes. This Board does. He said his argument would be that this was a legal non-conforming use under those standards at that time. It is coming before this Board to allow the people in the Building office to be able to approve it. They designed it in accordance with the law. There is the authority to grant the variance because of the change. It was not the applicant's fault in this. He said it applies to this property because it was already developed under those standards at the time.

Discussion followed.

Karna Levitt, Landscape Architect addressed the Board. Ms. Levitt said Ms. Shepherd is asking for relief for all the buffers and they are willing to provide screening in substitution as shown on the proposed site plan.

Jackie Thomas made a motion to approve BOZA-22-60 for the landscape variance 10' type A according to the proposed plan submitted, in addition to a fence being located between the daycare and the property. Joe Manuel seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was approved.

**BOZA-22-61
DONNA SHEPHERD/NORTHSHORE HOLDINGS
2510 E. 17TH STREET**

Donna Shepherd with AD Engineering on behalf of Northshore Holdings II LLC requests a landscape variance.

Opposition was present.

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

Chairman McColpin said this is the back corner of the same scenario with the same conditions for this case.

Jackie Thomas made a motion to approve BOZA-22-61 for the landscape variance according to the plan submitted. Joe Manuel seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes

Ms. Levitt said there was opposition to this case.

Scott McColpin made a motion to bring the case BOZA-22-61 up for reconsideration. Paul Betbeze seconded the motion. All in favor, the case was brought back up to reconsider.

Scott McColpin made a motion to withdraw this motion at this time. Joe Manuel seconded the motion. Jackie Thomas agreed to this motion.

Jerome Lyle of 2508 E. 17th Street addressed the Board. Mr. Lyle said he lives right in the middle of this. His concern is the property margin being infringed.

Donna Shepherd addressed the Board in rebuttal. Ms. Shepherd said they are requesting an 8 ½' setback from the property line from the ROW.

Deputy City Attorney Phil Noblett read from the Code about building setbacks. He said this Board has the authority to hear this case and make a motion.

Jackie Thomas made a motion to approve BOZA-22-61 for the landscape variance 10' type A according to the proposed plans submitted and also for the setback reduction to 8.5' because the community has not been developed and it will be no less non-conforming to what is already there. Joe Manuel seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was approved.

**BOZA-22-62
DONNA SHEPHERD/CNE
2514 E. 17TH STREET**

Donna Shepherd with AD Engineering on behalf of Chattanooga Neighborhood Enterprise Inc. requests a landscape variance.

No opposition was present.

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

Chairman McColpin said this case was right next door with the same scenario as the last case.

Jackie Thomas made a motion to approve BOZA-22-62 for the landscape variance 10' type A according to the proposed plans submitted and also for the setback reduction to 8.5' because the community has not been developed and it will be no less non-conforming to what is already there. Joe Manuel seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was approved.

Chairman McColpin said we would take a 7.5 minute break.

The meeting resumed.

**BOZA-22-63
JOHN WEST/CCC PROPERTIES LLC
3401 BROAD STREET**

John West with AD Engineering on behalf of CCC Properties LLC 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.

John West with AD Engineering addressed the Board. Mr. West said this is for a new preschool for a use as a daycare in the UGC zone with a maximum of 200 children. It is next door to Calvary Chapel, who actually owns this property. The existing building will be renovated. Each classroom will have an exterior door. The area behind the building will be fenced in for a new playground area. The old drive thru canopy will be closed and incorporated into part of the building. A 5' wide vegetated street edge will be provided. New fencing will be in the back. The plans for the parking lot will stay the same. The plan is for the parking lot to stay pretty much the same otherwise. The parking lot has 52 spaces and the preschool will also have a cross parking agreement with Calvary Chapel next door. The employees will park at Calvary Chapel to leave the spaces for the parents. Car drop off will not be allowed. Parents will be required to park and pick up their kids by walking inside the building. Vehicles will be able to exit onto Broad Street but cannot make a left turn onto Broad Street. He said they reached out to Steve Land to see if they had any neighborhood associations and he said he could not find any record of an active neighborhood association. They also reached out to Councilwoman Dotley and she supported this case and thought it was great. They also reached out to CDOT with presubmittal meetings with them. Mr. West said more preschools are needed in Chattanooga.

Taylor Bowers representing CCC Properties and Calvary Chapel addressed the Board. Mr. Bowers said Calvary Chapel wraps around a business on two sides. Behind them is a parking lot that services Calvary Chapel. The Building will be 14,000 square feet. The play area will be close to 3,000 square feet.

Discussion followed.

Caleb Fisher, Transportation Designer addressed the Board. Mr. Fisher said the access easement in the rear is primarily going to be used as an exit which will go to St. Elmo.

Mr. Bowers said he could put a "No Left Turn" sign out of the parking lot to Broad Street.

Susan Gilmore made a motion to approve BOZA-22-63 with the addendum that there will be a no left turn sign posted on the property affecting the Broad Street access. Paul Betbeze seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was approved.

**BOZA-22-64
GLEN MEADOWS
7379 OLD CLEVELAND PIKE**

Glen Meadows requests relief from Section 38-74(3) Lot Frontage.

Opposition was present.

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

Glen Meadows of 1501 Morris Hill Road addressed the Board. Mr. Meadows said he owns the property in question. He wants to divide this and build 2 affordable workforce housing homes. He said it is very close to Volkswagen and he thinks it is a much needed type of housing for this area. He has a sewer at the street that is available. He said he is meeting all the setbacks. If he gets the variance he will go to the Regional Planning Agency (RPA) and ask them to subdivide this and go forward and build two homes.

Discussion followed.

Deputy City Attorney Phil Noblett said according to Section 38-567 the problem here is that the Board has to have some sort of hardship with the shape of the lot or some sort of condition on the lot. Otherwise this Board does not have the authority to grant that variance.

Frank Brogden, Sr. of 7385 Old Cleveland Pike addressed the Board. Mr. Brogden said he is next door. He said for the record this is a self-inflicted issue and has caused him to lose value on his property.

Paul Betbeze made a motion to deny BOZA-22-64. Rudolph Foster seconded the motion.

A roll call was taken. Jackie Thomas - yes, Lee Brock - yes, Susan Gilmore - yes, Rudolph Foster - yes, Joe Manuel - yes, Paul Betbeze - yes, Ray Adkins - yes, Scott McColpin - yes: The motion passed to deny and the case was denied.

**BOZA-22-65
LUKE BOWLING
1409 E. 51ST STREET**

Luke Bowling on behalf of Big Sky Landscapes LLC requests a reduction in front 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.

Luke Bowling of 1467 Highway 193 in Flintstone, Georgia addressed the Board. Mr. Bowling said he is a small business owner and wants to construct a building for business operations. He is requesting a setback change on the front from 25' to 15'. The problem is that there is a power pole in the back left corner of the lot and the access around the building. Part of their day to day operations is backing in and pulling out of trailers or trucks that are bigger and longer. So in order to get in behind or around their building with materials, trailers, etc he is proposing the building come forward 51st Street 10' in order to get in or around that building. There are similar setbacks or conditions close by directly across the street which have a similar parking condition that is almost identical to what he would like to do. His operation currently exists in Tennessee. He said three of his property corners are in other people's fences. Technically he can remove those fences but does not want to disturb his neighbor's property.

Discussion followed. Mr. Bowling was told to look up adverse possession

Susan Gilmore made a motion to approve BOZA-22-65 for the reduction in front setback from 25' to 15' for new construction due to the EPB easement. Paul Betbeze seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was approved.

**BOZA-22-67
TOMMY BROOM
8312 IGOU GAP ROAD**

Tommy Broom requests a special permit for equine personal use.

No opposition was present.

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

Tommy Broom addressed the Board. Mr. Broom said years ago there used to be horses there. He said he has the property up for sale. He has 3 people who want to have a horse. He has 7 acres and there is a barn on it. He said he will not have any goats there.

Discussion followed. Section 38-568(22) was referenced and how conditions had to be met.

Deputy City Attorney Phil Noblett said equine only allows horses, mules, burrows and ponies. It has to have a physical containment area and a manure storage area in a certain area to minimize the problems to the adjoining property owners. Each animal must have a pasture of 1 acre. It must have a barn and as long as the barn is kept in a sanitary condition it cannot be within 50' of any property line or 150' of any residential dwelling. He said as long as he does not have goats, he should be fine. He said that a special exception would go with the land.

Scott McColpin made a motion to approve BOZA-22-67 for the special exceptions permit for equine personal use. Paul Betbeze seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Susan Gilmore - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was 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

AMENDMENT TO BOZA-22-60, BOZA-22-61, BOZA-22-62
FOR THE OCTOBER 5, 2022 MEETING

This amendment is to correct the following three (3) cases for the type of landscape buffer requested. All three (3) cases were approved at the October 5, 2022 meeting. Ms. Donna Shepherd with AD Engineering said she requested a "Type C", not a "Type A" that was listed on the Agenda. She requested that all three (3) of her cases reflect the correct type landscape buffer.

Therefore, the following three (3) cases are hereby amended to read as follows:

BOZA-22-60
DONNA SHEPHERD/WSRENEW LLC
2461 E. 18TH STREET

Jackie Thomas made a motion to approve BOZA-22-60 for the landscape variance 10' type C according to the proposed plan submitted, in addition to a fence being located between the daycare and the property. Joe Manuel seconded the motion.

BOZA-22-61
DONNA SHEPHERD/NORTHSHORE HOLDINGS
2510 E. 17TH STREET

Jackie Thomas made a motion to approve BOZA-22-61 for the landscape variance 10' type C according to the proposed plans submitted and also for the setback reduction to 8.5' because the community has not been developed and it will be no less non-conforming to what is already there. Joe Manuel seconded the motion.

BOZA-22-62
DONNA SHEPHERD/CNE
2514 E. 17TH STREET

Jackie Thomas made a motion to approve BOZA-22-62 for the landscape variance 10' type C according to the proposed plans submitted and also for the setback reduction to 8.5' because the community has not been developed and it will be no less non-conforming to what is already there. Joe Manuel seconded the motion.


CHAIRMAN

5-Apr-2023
DATE


SECRETARY

4-5-23
DATE

**BOARD OF ZONING APPEALS
DEVELOPMENT RESOURCE CENTER BUILDING
CHATTANOOGA, TENNESSEE
NOVEMBER 2, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on November 2, 2022, at 10:00 a.m. In attendance were Chairman Scott McColpin presiding, Board members Mr. Alan Richelson, Vice Chairman Paul Betbeze, Mr. Rudolph Foster, Mr. Lee Brock and Ms. Jackie Thomas. Absent were Ms. Susan Gilmore, Mr. Ray Adkins and Mr. Joe Manuel. Also in attendance were Deputy City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

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

MINUTES:

The September and October minutes were ready to be approved. Alan Richelson made a motion to approve the September minutes. Paul Betbeze seconded the motion. All in favor, the September minutes were approved.

Jackie Thomas made a motion to approve the October minutes. Rudolph Foster seconded the motion. All in favor, the October minutes were approved.

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 would be held on Wednesday, December 7, 2022. Also, he said there would be ethical training after the meeting.

NEW BUSINESS:

**BOZA-22-66
ROBERT ELLIOTT
612 YOUNG AVENUE**

Robert Elliott requests a reduction in left side setback from 10' to 8' and a reduction in front setback from 25' to 18' for new construction.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said it is not a lot of record.

Michelle Elliott of 110 Ridgeside Road addressed the Board. Ms. Elliott said they purchased this lot about a month ago and are planning to build a house, but are short about 6' on the front for the porch. It is the front porch that would require the additional street front from 25' to 18'. They talked to their neighbors who are fine with it. She said they are trying to build something that will be in keeping with the streetscape and not a monstrosity. She said the size of the lot is the hardship.

Deputy City Attorney Phil Noblett said this Board has the authority under Sec. 38-567 of the City Code to grant a variance and it has to be based on a hardship under the law. He listed the possible hardships. The hardship cannot be created as a result by an act of the applicant.

Discussion followed.

At this point, Ms. Elliott asked for a deferral.

Paul Betbeze made a motion to defer BOZA-22-66 to the December meeting. Jackie Thomas seconded the motion.

A roll call was taken. Paul Betbeze - yes, Rudolph Foster - yes, Alan Richelson - yes, Jackie Thomas - yes, Scott McColpin - yes: All in favor, the motion passed and the case was deferred to December.

Board Member Lee Brock joined the meeting at this point.

**BOZA-22-68
KEITH RICHARD
2117 DUNCAN AVENUE, UNIT A**

Keith Richard on behalf of Jacoway Hollis requests a reduction in rear setback from 25' to 12' for an addition.

No opposition was present.

Inspector Randy Ridge briefed the Board of the variance in his PowerPoint presentation. He said it was hard to tell exactly what Mr. Richard was requesting. He thought it was for a front setback. The proposed addition will be fronting Duncan Avenue.

Keith Richard addressed the Board. Mr. Richard said he was the son of Hollis Jacoway who owns the property. She wanted to do an addition to the house. From the house to the property is 25'. He presented photos of what he is proposing to do.

Discussion followed.

Jackie Thomas made a motion to approve BOZA-22-68 for the reduction in front setback from 15' to 12' for the addition area only and the porch of unit A because it is no less non-conforming to the existing homes on that street. Paul Betbeze seconded the motion.

A roll call was taken. Paul Betbeze - yes, Rudolph Foster - yes, Alan Richelson - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: All in favor, the motion passed and the case was approved.

**BOZA-22-69
GLEN CRAIG/GLENMEDE TRUST COMPANY
1312 WOODHILL DRIVE**

Glen Craig with Craig Design Group on behalf of Glenmede Trust Company requests a reduction in rear setback from 25' to 20.5' and a reduction in right side setback from 25' to 15' for an addition.

No opposition was present.

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

Kaitlin Pilgrim with Craig Design Group addressed the Board. Ms. Pilgrim said she was representing the Charmans. They recently got married and with the blending of these families Mrs. Charman has a daughter with special needs. They will live in Mr. Charman's existing home and in order to do this are proposing to do an addition in the rear. The adult daughter needs care for her disability for the rest of her life. This will provide her own space in the rear. They will still maintain access to her but maintain privacy as well. They will also fence in the area to provide safety as well.

Sherri Greene addressed the Board. Ms. Greene said they feel very strongly that they need a very safe place for her 19 year old daughter to be able to hang outside with the dogs and have friends over.

Peter Charman addressed the Board. He said there is a garage at the end of the house and he does not plan on putting another garage on the addition.

Discussion followed.

Deputy City Attorney Phil Noblett said this is an addition and there are requirements in the Code and the Board may allow the addition if it is no less non-conforming and not in conflict with the character of the area where the property is located. He said there are issues about the adjoining property above on Woodhill Drive, which is a hill so that is another issue to consider.

Paul Betbeze made a motion to approve BOZA-22-69 for the reduction in rear setback from 25' to 20.5' for the addition based on the fact that it is an irregular lot shape and topography as well that it is no less non-conforming than other properties in the neighborhood. Jackie Thomas seconded the motion.

A roll call was taken. Paul Betbeze - yes, Rudolph Foster - yes, Alan Richelson - yes, Lee Brock - yes, Jackie Thomas - yes, Scott McColpin - yes: The motion passed and the case was approved.

OTHER BUSINESS:

Parking at the DRC - Mr. Richelson said for the record we all serve as volunteers. Something needs to be done about the parking. He said the Board members should not have to endure a hardship. Deputy City Attorney Phil Noblett said the Board needs to be allowed to park either in the back or have access to the lot across the street. He said this order needs to come from the Mayor's office. He said he will let the Mayor's Chief of Staff know.

Training on Hardships - Deputy City Attorney Phil Noblett gave a session on what constitutes a hardship. He said we have Bylaws and Rules of Order for our meetings. Someone from the City Attorney's office is required to be here at the meetings. He said the new Zoning Ordinance will be reviewed by the Regional Planning Agency right now.

Discussion followed.

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
DECEMBER 7, 2022**

The Board of Zoning Appeals of the City of Chattanooga, Tennessee, met in regular meeting on December 7, 2022, at 10:00 a.m. In attendance 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 and Mr. Lee Brock. Absent was Ms. Jackie Thomas. Also in attendance were City Staff Attorney Kathryn McDonald and City Attorney Phil Noblett and Ms. Dottie Cannon, Secretary to the Board.

Staff members in attendance were Mr. Ariel Soriano, Deputy Director of the Land Development Office and Ms. Karna Levitt, Landscape Architect. Ms. Lori Roberson, Court Reporter, was present and took transcription of the proceedings.

MINUTES:

The November minutes were ready to be approved. Alan Richelson made a motion to approve the November minutes. Paul Betbeze seconded the motion. All in favor, the minutes were approved.

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 would be held on Wednesday, January 4, 2023. He recognized that today was Pearl Harbor day.

OLD BUSINESS:

**BOZA-22-66
ROBERT ELLIOTT
612 YOUNG AVENUE**

Robert Elliott requests a reduction in left side setback from 10' to 8' and a reduction in front setback from 25' to 18' for new construction.

No opposition was present.

Mr. Soriano briefed the Board of the variance in his PowerPoint presentation.

Robert Elliott of 110 Ridgeside Road addressed the Board. Mr. Elliott said he is the lot owner and applicant. He said Young Avenue is a straight street in N. Chattanooga. The homes are smaller homes and there are sidewalks on both sides. The character of the neighborhood is what drew them to buy a lot there. In starting to do house planning, they became more familiar with the setback rules. There is a 25' front setback requirement in this neighborhood, as well as a 10' side setback required. They need to ask for this variance in order to have a front porch. He said in doing research, there are about 60 homes on Young Avenue. Thirty-five of them do not meet the 25' front setback. His wife did not have that information at the last meeting. There are multiple cross streets on Young Avenue. There are 4 homes that sit right on the street. The side facing Young Avenue is considered a side street. He read a brief message from his architect that proved he had a hardship. The letter stated that "there is a 14' drop from the sidewalk to the rear of the lot and the lot is only 95' deep. In order to engage the street you should be at the street level and not below it. This is a small lot, 95' by 65', in combination with the severe grade that exists on the lot is a hardship." The variance would allow them to construct a house that is more like the existing context of the neighborhood and would allow them to maintain the public

streetscape engagement. Mr. Elliott said they want to fit in with the character of the neighborhood. The house sits back 25' but they want a front porch. He also said he received a letter from the neighbor who was in agreement with his plans.

Discussion followed.

City Staff Attorney McDonald discussed Sec. 38-567 and read the hardship conditions.

Paul Betbeze made a motion to deny BOZA-22-66 for the request due to the fact that there is no hardship. Alan Richelson seconded the motion.

Discussion followed.

A roll call was taken. Ray Adkins - no, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - no, Scott McColpin - yes: The motion to deny was passed and the case was denied.

NEW BUSINESS:

**BOZA-22-71
ALICIA SEBASTIAN
3619 5th AVENUE**

Alicia Sebastian on behalf of Miguel Pedro requests a special permit for a restaurant in the C-5 zone.

Opposition was present.

Mr. Soriano briefed the Board of the variance in his PowerPoint presentation.

Aaron Cole, Architect addressed the Board. Mr. Cole said this lot and the lot to the left are C-5 zones in East Lake. All the other lots are R-1. They are asking for a special permit listed under Sec. 38-267, which allows restaurants with fewer than 50 seats, no drive-thru or curbside service to be allowed in C-5.

Alicia Sebastian addressed the Board. Ms. Sebastian said this is her husband's property and saw another restaurant near them just down the road. Carta passes by them every 30 minutes and she thought it was a good place to sell. They did open the restaurant but found out they needed a permit so they closed it and did it the right way.

At this point, City Attorney Phil Noblett joined the meeting.

Discussion followed.

City Attorney Phil Noblett read off the portion of the Code that says C-5 restaurants are allowed with a special exceptions permit. He said there are prohibited uses also found in C-5. There are specific requirements about yard depth that are involved and there are also parking conditions that have to be looked at before a CO is approved. However the aspect of being able to grant the special exceptions permit is not contingent upon that. He said all the City requirements have to be met, but the special permit is for the use here.

Karna Levitt, Landscape Architect addressed the Board. Ms. Levitt said the plan the applicant is showing for landscaping is missing a screening buffer and one island in the parking lot that will have to be worked out during the land disturbance process.

Christine Celis addressed the Board. Ms. Celis said she owns the property next door to them. The business is like a liquor store. She just rents it. Her concern as an owner is the area where the entrance and exit is, is only 84 inches. There is no other way for a potential customer to enter the property. That had been a condemned house that they turned into a commercial. That whole backyard area is graveled. The City does not take care of that alleyway and there are potholes there. She said if the applicant constructs a barrier on her property line it will limit the space even more. Having an entrance and exit on the alleyway does not give enough room for people to come in and out and no wall to separate that space. She does not want to share that space for parking but she is not opposed to them having a restaurant.

Discussion followed.

Aaron Cole addressed the Board in rebuttal. Mr. Cole said the dining space is for 40 people under the occupancy load.

Susan Gilmore made a motion to approve BOZA-22-71 for the special permit for a restaurant with the site plan attached. Ray Adkins seconded the motion. Alan Richelson wanted to amend the motion to include adhering to the special permit checklist. The motion was amended to include adhering to the special permit checklist.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: All in favor, the motion passed and the case was approved.

BOZA-22-72
DUANE JENSEN
900 YOUNG AVENUE

Duane Jensen requests a reduction in the right side setback from 25' to 10' for new construction.

No opposition was present.

Mr. Soriano briefed the Board of the variance in his PowerPoint presentation.

Duane Jensen addressed the Board. Mr. Jensen said the existing house was falling down and they would like to tear it down. He said this lot is 62 feet and all the other lots on this tract are either 50 or 60 feet. If you keep it at the current setbacks and try to build a home, it makes you build an undesirable house. They did a survey and they found out about the additional 2 feet from the survey. The architect told him if he built a house, he would only get a house 32' wide. The back of the house slopes pretty severely. His plan is to tear down the structure in the back and build a single family home.

Discussion followed. It was decided that there was not a current site plan to present.

At this point the meeting halted because the Court Reporter had to reset her machine.

City Attorney Phil Noblett said his concern on the quitclaim deed question is that these houses were built before the Zoning Ordinance was in place, which was 1969. He said if you are doing an addition, under Sec. 38-567 this Board could grant a variance. The problem is if you tear everything down and start things over you have to have some sort of specific exception: narrowness, shallowness or shape of the property. He said if you are doing a renovation you have a basis for this Board to act, otherwise there has to be a zoning change.

Discussion followed. Mr. Jensen requested to withdraw his request.

Paul Betbeze made a motion to withdraw without prejudice BOZA-22-72. Joe Manuel seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: All in favor, the motion passed and the case was withdrawn without prejudice.

BOZA-22-73
LADONNA HAMLIN
4903 TENNESSEE AVENUE

Ladonna Hamlin requests a reduction in the left side setback from 10' to 9.3' and a reduction in the right side setback from 10' to 6.8' for construction of a new deck.

No opposition was present.

Mr. Soriano briefed the Board of the variance in his PowerPoint presentation.

Ladonna Hamlin addressed the Board. Ms. Hamlin said on the back of the house, there is a set of stairs that needs to be replaced because they are rotting. So the intent was to build a deck on the back of the house the same width of the house.

Casey Johnson addressed the Board. Mr. Johnson said he is working on the house. He said they are expanding the house and the structure is not set with the setbacks. The house was built in 1920 and was not recorded. The house sits 6.8" from the left side and 9' on the other side does not meet the 10' setbacks. He said it was in violation at the time it was built. The house has a little of a grade in the back and would be 4' on the left and 6' on the right.

Karna Levitt, Landscape Architect addressed the Board. Ms. Levitt said her understanding from the Building Department was that flat work was allowed but structures were not allowed.

Discussion followed.

Susan Gilmore made a motion to approve BOZA-22-73 for the reduction in the left side setback from 10' to 9.3' and the reduction in the right side setback from 10' to 6.8' for the addition of the deck to extend the width of the existing home and no more than 12 feet in depth. Paul Betbeze seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: All in favor, the motion passed and the case was approved.

**BOZA-22-75
RICHARD McCOY/SCOTT HARRIS
6701 SHALLOWFORD ROAD**

Richard McCoy with Miller-McCoy, Inc. on behalf of Scott Harris requests a landscape variance.

No opposition was present.

Mr. Soriano briefed the Board of the variance in his PowerPoint presentation.

Cody Etling with Miller-McCoy, Civil Engineer for the client addressed the Board. Mr. Etling said this is a commercial use. Their client owns an office janitorial service where their people work remotely. They travel to the places that they are cleaning. This building functions as a general office area and storage area where cleaning vans come back, restock their supplies and go to the places of business. At one point this was a single family residential home, but has since been rezoned. The vans that access the property now have to drive into the existing driveway and then back out onto Shallowford Road, which is not ideal. They would like to have access around the building so a person can exit Shallowford Road the right way out. To do that they are requesting a variance on the 10' landscape yard on the west property line. The building now is right at the 10' building setback. So to get around to the rear of the property they need to impede on the buffer required in that area. To go around the front of the property to get the 22' drive aisle there they have to go up against the property line which would impede the 8' landscape requirement.

Discussion followed.

Karna Levitt, Landscape Architect addressed the Board. Ms. Karna said this is a very odd duck in that the zoning requires a screen buffer between the O-1 and R-1. However, the applicability rules do not specifically require them to place that buffer for this project. But at the same time she cannot allow them to pave all the way to the property line where these buffers are required without having that variance where those areas should be reserved for buffers when they are required. She said he has presented a proposal to give the trees in the street yard just not the open area, the 8' unpaved across the front. The same thing on the left side buffer, they are asking to remove that completely.

Discussion followed. Ms. Levitt said she had late breaking information and said the applicants have a conditional zoning requirement. That condition cannot be lifted by this body. That street yard cannot be considered at this time.

City Attorney Phil Noblett said the Code clearly says if there is a condition that has been adopted, this Board only has the power that is delegated to it by the City Council. So if there has been a condition added to the zoning, the City Council has the power to change that.

Discussion resumed.

Scott Harris addressed the Board. Mr. Harris said it was a 1 car garage.

At this point, Mr. Etling requested to defer his case for 30 days.

Alan Richelson made a motion to defer BOZA-22-75 for 30 days to the January meeting. Paul Betbeze seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: All in favor, the motion passed and the case was deferred to the January meeting.

BOZA-22-76
RICHARD MCCOY/KIA
2136 CHAPMAN ROAD

Richard McCoy with Miller-McCoy, Inc. on behalf of LRB KIA Properties, LLC requests a landscape variance.

No opposition was present.

Mr. Soriano briefed the Board of the variance in his PowerPoint presentation.

Cody Etling, Civil Engineer for the project addressed the Board. Mr. Etling said this project has already been approved from a land disturbance permit through the City of Chattanooga. Once the utility location services came out to the site we encountered a problem. This is the existing KIA dealership off Chapman Road. With the landscaping plan they fall into an area that they either need to provide the street yard requirements or the existing parking lot needs to be brought up to Code. So they chose the street yard requirements. They proposed the necessary street trees planted along the right of way. In the midst of this, they found that a Comcast service line went right where they proposed to plant their trees. The alternative to the street yard is to bring the existing parking lot up to Code. He said Ms. Levitt said the parking lot would just be considered the area for customer parking not for inventory. Unfortunately there are existing utility service lines going through those parking spaces that would be impeded by the installation of trees. So they are proposing trees spaced 35' on center. They would plant 10 trees rather than the 8 trees required in the street yard and they would be Class 2 trees per Code in the right of way.

Discussion followed.

Karna Levitt, Landscape Architect addressed the Board. Ms. Levitt said her request to the Board is to use your judgment in making sure that you are comfortable with taking trees that would be required in the front to move them to the back side of the property line. She understands the hardship in this business that is up and running. There are other stricter options and she appreciates the applicant's choice to provide the trees at a different location and provide the trees in excess of the minimum requirement. The other route for them would be to take up more pavement well behind the easement and intrude deeper into the lot.

Alan Richelson made a motion to approve BOZA-22-76 for the landscape variance subject to the Landscape Architect approving the type of trees that the applicant intends to plant and subject to the site plan. Ray Adkins seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze, - yes, Joe Manuel - yes, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: All in favor, the motion passed and the case was approved.

Chairman McColpin said that the hardships for this case were the existing easements along the existing street.

BOZA-22-77
RYAN MEDLEY/GESTAMP
7529 FERDINAND PIECH WAY

Ryan Medley on behalf of Gestamp requests a reduction in the front setback from 25' to 20' for an expansion.

No opposition was present.

Mr. Soriano briefed the Board of the variance in his PowerPoint presentation.

Stefan Graeber addressed the Board. Mr. Graeber said he is the civil engineer for this expansion project. He said they are adding 12,500 square feet expansion to the existing building in the northwest corner. He said the request is to reduce the building setback to 20'. Currently there is a 25' front setback for the building and there is an additional requirement for the height of the building, that there is an additional setback if the height exceeds 35'. The highest height of the building is 67'. It matches the existing building.

Brandon Holcomb addressed the Board. Mr. Holcomb said currently the back of the building is for coil storage and material. So there will be a crane running and they need to add more space for more coils. So the crane rails have to be straight.

Discussion followed.

Alan Richelson made a motion to approve BOZA-22-77 for the reduction in the front setback from 25' to 20' from the property line to accommodate the height of 35' of the existing building. Ray Adkins seconded the motion.

A roll call was taken. Ray Adkins - yes, Paul Betbeze - yes, Joe Manuel - abstained, Rudolph Foster - yes, Alan Richelson - yes, Susan Gilmore - yes, Lee Brock - yes, Scott McColpin - yes: The motion was passed and the case was 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