



BOARD OF ZONING APPEALS

SPECIAL CALLED MEETING MINUTES

August 16th, 2024

The duly advertised meeting of the Board of Zoning Appeals was held on August 16th, 2024, at 10:00 a.m. in conference room 1A of the Development Resource Center Building. Chairman Scott McColpin called the meeting to order at 10:01 a.m..

Members Present: Ray Adkins, Paul Betbeze, Scott McColpin, Rudolph Foster, Alan Richelson, Susan Gilmore, Joe Manuel

Staff Members Present: Staff Presenter Levi Witt, Admin Support Specialist Shelby Ogle, City Attorney Andrew Trundle, Transportation Review Specialist Caleb Fisher, Court Reporter Lori Roberson

Swearing In: Court Reporter Lori Roberson swore in people addressing the Committee.

Applicant(s) Present: Allen Jones, John Lapointe

Rules and Regulations: Chairman Scott McColpin explained the rules and procedures and announced the meeting is being recorded.

Agenda Update: BOZA-24-67 - 2330 Guinevere Pkwy.: Sign Variance - The Applicant requested to withdraw the case. *Scott McColpin* motioned to **WITHDRAW** case #: BOZA-24-67 - 2330 Guinevere Pkwy. without prejudice. *Alan Richelson* seconded the motion. No discussion. **All in favor. The motion carries 7-0.**

Approve Minutes: No Minutes to Approve

Voting Majority: 7 members present - 4 is the majority.

NEW BUSINESS

- BOZA-24-61: 2859 Northpoint Blvd. - Setback Reduction Variance

District: 3

Zone: R-4 Special Zone

Variance Request: Requesting a reduction in front setback from 25' to 20' for new construction.

Staff/Applicant Presentation and Discussion: Levi Witt presented the case to the Board.

Applicant was not present. The Board allowed for a one month courtesy deferral.

Board Motion and Vote:

- *Scott McColpin* made a motion to **DEFER** case #: BOZA-24-61: 2859 Northpoint Blvd. for one month to the September 4th meeting.

Rudolph Foster seconded the motion.

Voice Vote: **All in favor. The motion carries 7-0.**

- BOZA-24-62: 707 Old Dallas Rd.- Lot Size Variance

District: 2

Zone: R-1 Residential Zone

Variance Request: Reduction in lot size from 7,500 square feet to 4,596 square feet and a reduction in lot frontage from 60 feet to 39.4 feet.

Staff/Applicant Presentation and Discussion: Levi Witt presented the case to the Board.

Applicant Allen Jones of 1112 Wilmoth Rd came before the Board to present the case and the Board asked Staff why the case was being presented today since he should be able to build on the lots without a variance. The Applicant asked if he could clarify. He presented that the next case, BOZA-24-68 (703 Old Dallas Rd.), is the lot right beside the one in this case. The owner owns both properties and there is a small rectangular piece of the property that they are wanting to give to the other lot due to nonusage within the lot it currently sits in. There is a legal easement for parking (and a shared driveway) between the two lots. They are wanting to clean up the property lines so everything is legal and easier to understand. The Regional Planning Agency referred the Applicant to the Board of Zoning Appeals for a variance to allow for the replatting of the two lots. The Board then asked again why they need a variance to replat. The Board and the Applicant then had some dialogue about why they are bringing the cases before the Board and what they are being asked to do. The Applicant stated that the Regional Planning Agency cannot approve a subdivision of the two lots in which one of them becomes nonconforming. The Board then discussed the Board's authority on granting a variance on lot size vs lot frontage/width.

Community Response: No Community Comments

Board Motion and Vote:

- Paul Betbeze made a motion to **APPROVE** case #: BOZA-24-62: 707 Old Dallas Rd., for a reduction in lot frontage from 60 feet to 39.45 feet due to irregular lot shape for the front lot line only.

Susan Gilmore seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: Yes

Joe Manuel: Abstains

Scott McColpin: Yes

Rudolph Foster: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

The motion carries 6-0-1.

- BOZA-24-68: 703 Old Dallas Rd. - Lot Size Variance

District: 2

Zone: R-1 Residential Zone

Variance Request: Reduction in lot size from 7,500 square feet to 6,334 square feet.

Staff/Applicant Presentation and Discussion: Levi Witt presented the case to the Board.

Applicant Allen Jones of 1112 Wilmoth Rd just spoke in depth with the Board about the same variance request in the case before at a neighboring property. The Board asked if the Applicant believed that granting the variance for BOZA case #BOZA-24-62 was enough to not need the variance request for this lot and the Applicant stated that he believed it was. The Board then discussed the options for the Applicant in regards to confirming that was the case and they mentioned deferral. The Board then recognized Code Enforcement Inspector Zachary Wiley who informed the Board that he spoke to the Director of the Regional Planning Agency and he stated that they would need the variance approved to grant the subdivision and replat of the two properties. The Board then deferred to the City Attorney on whether or not they can rule on lot size variances. The City Attorney began to research the question.

Chair Scott McColpin called for a 10 minute break.

Chair Scott McColpin called the meeting back to order and the Board are discussing BOZA case #BOZA-24-68. The City Attorney stated that the Board does have the authority to rule on lot size variances. The City Attorney stated that the Board would need to revise their motion on BOZA case #BOZA-24-62 and bring it back before the Board.

Scott McColpin motioned to bring BOZA case #BOZA-24-62: 707 Old Dallas Rd. back before the Board.

Paul Betbeze seconded the motion.

Voice Vote: All in favor. **The motion carries 7-0.**

- BOZA-24-62: 707 Old Dallas Rd. - Lot Size Variance

Board Motion and Vote:

- Paul Betbeze made a motion to **APPROVE** case #: BOZA-24-62: 707 Old Dallas Rd., to reduce the lot size requirement from 7,500 square feet to 4,596 square feet and a reduction in lot frontage from 60 feet to 39.45 feet based on the irregular lot shape and it is no less nonconforming than the existing conditions.

Rudolph Foster seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: Yes

Joe Manuel: Yes

Scott McColpin: Yes

Rudolph Foster: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

The motion carries 7-0.

- BOZA-24-68: 703 Old Dallas Rd.- Lot Size Variance

Board Motion and Vote:

- Paul Betbeze made a motion to **APPROVE** case #: BOZA-24-68: 703 Old Dallas Rd., to reduce the lot size requirement from 7,500 square feet to 6,334 square feet based on the irregular lot shape and it is no less nonconforming than the existing conditions.

Joe Manuel seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: Yes

Joe Manuel: Yes

Scott McColpin: Yes

Rudolph Foster: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

The motion carries 7-0.

- BOZA-24-64: 1806 Wheeler Ave. - Lot Width Reduction

District: 9

Zone: R-1 Residential Zone

Variance Request: Requesting a reduction in lot frontage from 60' to 50'.

Staff/Applicant Presentation and Discussion: Levi Witt presented the case to the Board.

Applicant Allen Jones of 1112 Wilmoth Rd presented to the Board that the neighborhood was originally all Lots of Record and that during the 1950's or 1960's it appeared that there was some adjusting to the lot lines and as such the deed for the property in question now includes pieces of two other lots. He stated that the builder is wanting to build within the same design as the neighborhood and therefore wants to make two 50 foot lots; which fall in the same layout as the rest of the lots in the neighborhood. The Board then asked some clarifying questions about the lot sizes that are currently existing and the Applicant answered the questions.

Community Response: No Community Comments

Board Motion and Vote:

- Rudolph Foster made a motion to **APPROVE** case #: BOZA-24-64: 1806 Wheeler Ave., to reduce the required lot frontage from 60 feet to 50 feet.

Susan Gilmore seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: Yes

Joe Manuel: Abstains

Scott McColpin: Yes

Rudolph Foster: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

The motion carries 6-0-1.

- BOZA-24-65: 5771 Brainerd Rd. - Relief from Brainerd Overlay

District: 9

Zone: C-2 Convenience Commercial Zone

Variance Request: Requesting relief from Chap. 38; Art III. Div 4. Sec. 38-13. Brainerd Overlay Zone Standards.

Staff/Applicant Presentation and Discussion: Levi Witt presented the case to the Board.

Alan Richelson recuses himself from the case.

Applicant John LaPointe of 18703 Chaville Rd who is the developer for the project presented to the Board that this same property was before the Board about a year ago, but it was a different car wash company. He stated that they have been working hard to try to comply with the intent and requirements of the Brainerd Overlay. He stated that given the irregular lot shape, they cannot completely comply with all buildings being on the build line and are asking for relief from that requirement. They are asking for a setback variance on the front setback for a building. The Board asked about the other requirements of the overlay, such as parking and landscape, and the Applicant stated that they will be in compliance with the requirements. The Board asked the Applicant a few more questions in regards to opposition and hardship.

Community Response: No Community Comments

Board Motion and Vote:

- *Rudolph Foster* made a motion to **APPROVE** case #: BOZA-24-65: 5771 Brainerd Rd., for relief from the Brainerd Overlay front setback requirements for the yellow building on the submitted site plan.

Joe Manuel seconded the motion.

Motion Amendment:

- *Rudolph Foster* amends the motion to state that approval is contingent upon the accessory building for the vacuums not being built in the front setback.

Joe Manuel seconded the motion amendment.

Roll Call Vote:

Ray Adkins: Yes

Paul Betzebe: Yes

Joe Manuel: Yes

Scott McColpin: Yes

Rudolph Foster: Yes

Alan Richelson: Recused

Susan Gilmore: Yes

The motion carries 6-0-1.

Scott McColpin introduced the new director of the Land Development Office, Bill Gore, to the Board. He also stated that there will be some training for the new zoning code coming out later this year.

Scott McColpin adjourned the meeting at 11:20 p.m..



Scott McColpin, Chairman

11-Nov-2024

Date



Shelby Ogle, Admin

12-Nov-24

Date