



BOARD OF ZONING APPEALS

MEETING MINUTES

August 7th, 2024

The duly advertised meeting of the Board of Zoning Appeals was held on August 7th, 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 10:00 a.m..

Members Present: Ray Adkins, Paul Betbeze, Scott McColpin, Rudolph Foster, Alan Richelson, Susan Gilmore, Joe Manuel, Lee Brock, J.T. McDaniel

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, Landscape Architect Karna Levitt

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

Applicant(s) Present: Wayne Williams, Alex Grace, Aaron Cole/Sumeet Makhijani, Julia Smith, Ed Garbee/Emily Campbell, Mike Price

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

Chairman Announcement: Chairman Scott McColpin made an announcement in regards to the agenda for today's meeting. He stated that due to the large caseload on the agenda, the Board would hear Old Business and the first 7 cases of New Business on the agenda. The rest of the agenda would be heard on August 16th, 2024 at 10 a.m..

Approve Minutes: Chairman Scott McColpin presented the July 3rd, 2024 Meeting Minutes to be voted on. No amendments need to be made. Ray Adkins motioned to **APPROVE** the July minutes. Joe Manuel seconded the motion.

Voice Vote: All in favor. **The motion carries 8-0.**

Voting Majority: 8 members present - 5 is the majority.

OLD BUSINESS

- BOZA-24-21: 511 Rosewood St. - Setback Reduction Variance; Reduction in Buildable Area

District: 2

Zone: RZ-1 Zero Lot Line Residential Zone

Variance Request: Reduction on front setback from 25' to 17', a 5' increase to the south side yard setback from 0' to 5', and a reduction to the minimum buildable area from 2,625 SF to 2,180 SF.

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

Applicant Wayne Williams of 1420 McCallie Dr, presented to the Board that he believes that what he has presented to the Board at this time is what the neighbors in the area have agreed to and should have removed all objections. He stated that he still requested the front setback reduction variance and the buildable area variance. The Board questioned the size of the house that is being built; asking if it was 4,000 square feet and the Applicant corrected the Board, stating that the house was around 2,500 square feet. One of the Board then questioned the City Attorney on the Board's authority to grant a reduction in buildable area of the lot. The City Attorney stated that he believes so. The Chair then stated that the lot was made and rezoned before the Applicant bought the property. The City Attorney then confirmed that this case does fall within the Board's purview. A member of the Board asked for clarification about the request to increase the setback from 0 feet to 5 feet as well as what the buildable area reduction that is being requested is. The Applicant stated that they are requesting it to be 2,108 square feet. The Board then asked the Applicant about the neighbors in opposition not being in opposition anymore and he stated that the last neighbor in objection was in attendance. One of the Board confirmed with Staff that there was an email from a neighbor in opposition.

Community Response: David Neff of 507 Rosewood St (south of the property in question) presented to the Board that he has had conversations with the Applicant about different setbacks for the shared property line. He also discussed the history of the lot a little and stated that with the draft of the new zoning code being approved through City Council, they discussed allowing a 5 foot setback at the shared property line. If the Applicant sticks to the 5 foot setback, the neighbor is no longer in objection to the project.

Board Motion and Vote:

- Paul Betbeze made a motion to **APPROVE** case #: BOZA-24-21: 511 Rosewood St., for a front setback reduction from 25 feet to 17 feet; as well as amend the left side setback from 0 feet to 5 feet; and a reduction in the buildable area to 2,180 square feet, with the hardship being irregular lot shape.

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

Lee Brock: Yes

J.T. McDaniel: Yes

The motion carries 9-0.

NEW BUSINESS

- **BOZA-24-52: 7013 Shallowford Rd. - Parking Variance**

District: 6

Zone: C-2 Convenience Commercial Zone

Variance Request: Reduction in the parking requirement from 1 space per guest room to 0.9 space per guest room.

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

Representative for the Applicant Alex Grace of 4650 S. Lee Hwy. (general contractor) presented to the Board that they came before the Board in 2019 to ask for the same parking variance for a different hotel that has been open and operating for 2 years now. In their opinion, the zoning code does not meet parking for requirements for normal day operation. They stated that they believe that the actual number that should be required is closer to .8 spaces. He stated that their capacity for the hotels runs about 75% regularly and with rideshare options and such - there is not as much of a need to have the required number of parking spaces. He then showed the Board that there is no way to allow patrons to park at the neighboring properties due to highway traffic and a retaining wall. The Applicant stated that the hardship is due to the lot shape and easements that are located on the property. The Applicant was asked if they came before the Board previously for the same property and he stated that they did, but the variance had expired before they were able to begin construction. The Board then continued to ask the Applicant questions about the parking

requirements, such as what they are required to supply now, which is 1 parking spot to each room. They also asked if there would be any events or other circumstances that would affect the parking, which the Applicant stated they do not do. The Board then asked Transportation Review Specialist Caleb Fisher if the new zoning code that was going before City Council changed the required ratio from one to one - Caleb said that the new code still required that. To which, the Board followed up with a question about why it wasn't changed with the new code, and Caleb said that he did not know. The Board asked the Applicant if staff parking was allotted and he said that it wasn't really, but it was considered when the plan was made.

Community Response: No Community Comments

Board Motion and Vote:

- Alan Richelson made a motion to **APPROVE** case #: BOZA-24-52: 7013 Shallowford Rd., for a reduction in parking requirements from 1 per room to 0.9 per room or a reduction of 13 spaces.

Ray Akins seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: No

Joe Manuel: Yes

Scott McColpin: Yes

Rudolph Foster: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Lee Brock: Yes

J.T. McDaniel: Yes

The motion carries 8-1.

- **BOZA-24-54: 5413 Alabama Ave. - Setback Reduction Variance**

District: 7

Zone: R-1 Residential Zone

Variance Request: Reduction in rear setback from 25' to 5' for new construction.

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

Applicant was asked to come forward. Applicant was not present at the meeting. The Board granted a courtesy deferral to the September 4th meeting.

Board Motion and Vote:

- Scott McColpin made a motion to **DEFER** case #: BOZA-24-54: 5413 Alabama Ave., for one month to the September 4th meeting.

Paul Betbeze seconded the motion.

Voice Vote: **All in favor. The motion carries 9-0.**

- **BOZA-24-55: 709 Merriam St. - Height Variance**

District: 1

Zone: R-1 Residential Zone

Variance Request: Increase in maximum building height from 35' to 40'.

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

Architect Aaron Cole presented with the Owner/Applicant Sumeet Makhijani of 709 Merriam St. to the Board that they are wanting to build a house at that location. They stated that it is currently an empty lot and the steepness of the slope of that lot has triggered the City's steep slope ordinance and they have gone through the process and received their land disturbing permit. He stated that due to the steepness of the slope they have to build a 15 foot basement to allow for an exit out the back of the house on grade. They also have a 5-6 feet retaining wall behind the house. They are asking to be able to raise the house about 5 feet. The Board asked if there were any other houses that were that tall in

the neighborhood and the Applicant stated that they appear to be designing a house that is in kind to the neighboring houses, but are unsure of the exact height of the surrounding houses. The Board asked if any of the surrounding houses received a height variance from the Board and Staff confirmed that they could not find any cases. The Applicant stated that if they dug further into the ground to bring the house to the maximum allowable height, the retaining wall would end up being roughly 10 feet tall. The Board asked if they could make changes to the slope of the roof to bring it under the requirement. The Board then talked about the possibility of digging the foundation deeper or something of that nature and they stated that they have already gotten a land disturbing permit and if they were to try to change that plan, it would cost them a lot of money and time. The Board then asked if they could move the house forward to allow for them to dig deeper. The Applicant stated that they are as far forward as they can by given the setback requirements.

Community Response: No Community Comments

Board Motion and Vote:

- Ray Adkins made a motion to **APPROVE** case #: BOZA-24-55: 709 Merriam St., for a reduction in building height from 35 feet to 40 feet due to a hardship of topography.

Lee Brock seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: No

Joe Manuel: No

Scott McColpin: No

Rudolph Foster: No

Alan Richelson: Yes

Susan Gilmore: Recuse

Lee Brock: Yes

J.T. McDaniel: Yes

The motion is tied (4-4-1) and does not pass - defer case to the September Meeting.

- **BOZA-24-57: 4133 Quinn Adams. - Special Permit for Duplex on a Lot of Record**

District: 7

Zone: R-2 Residential Zone

Variance Request: Requesting a special permit for a duplex on a Lot of Record.

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

Applicant Julia Smith of 4133 Quinn Adams St. presented to the Board that she purchased the lot in April and wants to build a duplex on the property that is a Lot of Record. The Board informed the Applicant that there are certain items that they need before they can rule on this case. The Applicant is wanting to know what she can build right now on the lot. The Board informed the Applicant that a new zoning code will be coming later in the year and a special permit might not be required from the Board to build a duplex.

Community Response: No Community Comments

Board Motion and Vote:

- Susan Gilmore made a motion to **WITHDRAW** case #: BOZA-24-57: 4133 Quinn Adams St., without prejudice.

Rudolph Foster seconded the motion.

Voice Vote: **All in favor. The motion carries 9-0.**

- **BOZA-24-59: 5231 Wilbanks Dr. - Parking Variance**

District: 3

Zone: C-5 Neighborhood Commercial Zone

Variance Request: Requesting a parking variance for a reduction in required parking spaces and a landscape requirement variance.

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

Architect Ed Garbee of 5231 Wilbanks Dr and Owner Emily Campbell of Apple Pie LLC presented to the Board that given the topography of the location, they are limited to the number of parking spaces they can provide. They said they only have 6 employees and the parents are just dropping off children for the daycare and rarely going to park at the location to stay. They want to ensure the children have a good play area as well, which cuts down on the ability to have the parking to meet the code requirements. The Board asked how many children they plan to have on site. The owner stated that they are licensed to have 60 kids, but the owner stated that they may cap it at 50 kids. This same address came before the Board to get the Special Permit for the daycare and was approved. The Board asked the Applicant multiple questions about the lot and the ability to add more parking to meet the parking space requirement. The Board asked what the hardship would be since the lot appears to be flat and the neighbor has agreed to allow them to use some of their land to access the parking that is planned for behind the building. The Board asked the Applicant questions about the agreement with the neighbor for an easement access. The Board asked if they were planning to use the neighboring property for parking as well or just the access and they stated that they are just asking for access. The Board then spoke to them about what landscape variance they are asking for and why - the Applicant stated that it would be difficult for them to comply with the landscape requirements the code has. The Board encouraged the Applicant to work with Landscape Architect Karna Levitt on the landscape variance requests.

Community Response: April Loy Williams of 5408 Old Hixson Pike lives at the property located directly behind the property in the variance request and is concerned about changes being made that would cause additional flooding that would be detrimental to her house. She is also concerned about safety in regards to the traffic at the corner of the lot - she stated that there are tons of accidents that occur at that intersection.

Board Motion and Vote:

- Joe Manuel made a motion to **DEFER** case #: BOZA-24-59: 5231 Wilbanks Dr., for one month to the September 4th meeting.

Paul Betbeze seconded the motion.

Voice Vote: **All in favor. The motion carries 9-0.**

- BOZA-24-60: 1909 Gunbarrel Rd. - Parking Variance

District: 4

Zone: C-2 Convenience Commercial Zone

Variance Request: Requesting a parking variance for a reduction in required parking spaces and a landscape requirement variance.

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

Applicant Mike Price of 7380 Applegate Ln presented to the Board that the request is driven by a change to the approved plan which added a driveway and that took away some of the onsite parking. The owner of the neighboring property also owns the property that the variance is being requested at; they were able to meet the parking requirements by combining the number of parking spaces. They want to increase the allowable percentage of offsite parking instead of reducing the required number of onsite parking. The Board asked the Applicant if the two properties are connected to each other and he said yes. The Board then asked about the concrete wall between the properties and the Applicant stated that they are planning to tear it down to allow for access to both parking lots. The Board then discussed having an easement placed so that there would not be any issues with the parking later if one of the properties sells.

Community Response: No Community Comments

Board Motion and Vote:

- Scott McColpin made a motion to **APPROVE** case #: BOZA-24-60: 1909 Gunbarrel Rd., for an increase in offsite parking from 25% to 32% with the condition that a nonexclusive parking agreement and access agreement/easement be placed on record in the Register's office and supplied to Staff.

Alan Richelson 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
Lee Brock: Yes
J.T. McDaniel: Yes
The motion carries 9-0.

- BOZA-24-69: 1901 Henegar Cir. - Setback Reduction Variance

District: 4

Zone: R-4 Special Zone

Variance Request: Requesting a reduction in rear setback from 35' to 21' for new townhome construction.

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

Applicant Mike Price of 7380 Applegate Ln presented to the Board that this case has come before the Board under a different Applicant and address. The property was under some scrutiny due to a series of errors that occurred during the time that permits were issued. The owner at the time then sold the property and the new owner then realized the errors had occurred and began the process of bringing the property into compliance with the City and ensuring they can continue operating without concern. They are requesting a reduction in the setback along Joiner Rd from 25 feet to 21 feet. The request is for the overhangs that are located on the second floor and not the main building.

Community Response: No Community Comments

Board Motion and Vote:

- Scott McColpin made a motion to **APPROVE** case #: BOZA-24-69: 1901 Henegar Cir., for a right side setback reduction from 25 feet to 21 feet.

Paul Betbeze 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
Lee Brock: Yes
J.T. McDaniel: Yes

The motion carries 9-0

Scott McColpin motioned to temporarily adjourn with a reconvene date of August 16th.
Meeting was adjourned at 12:05 p.m..



Scott McColpin, Chairman

6-Nov-2024

Date



Shelby Ogle, Admin

12-NOV-24

Date

