



# BOARD OF ZONING APPEALS

## MEETING MINUTES

January 7th, 2026

The duly advertised meeting of the Board of Zoning Appeals was held on January 7th, 2026, at 10:00 a.m. in conference room 1A of the Development Resource Center Building.

Chairman Scott McColpin called the meeting to order at 10:06 AM.

### **Board Attendance:**

- Bob Geier
- Scott McColpin
- Paul Betbeze
- Rudolph Foster
- Joe Manuel
- Lee Brock
- J.T. McDaniel
- Victoria Johnson
- VACANT

### **Staff Attendance:**

- Staff Presenter: Levi Witt
- Admin: Shelby Ogle
- Zoning Code Inspector: Zachary Wiley
- Assistant Director: Darien Gilkenson
- Transportation Specialist: Caleb Fisher
- Court Reporter: Lori Roberson
- Landscape Architect: Karna Levitt
- City Attorney: Andrew Trundle

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

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

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

**Approve Minutes:** Chairman Scott McColpin presented the December 2025 Meeting Minutes to be voted on. No amendments need to be made. *Bob Geier* motioned to **APPROVE** the December minutes. *Paul Betbeze* seconded the motion. Voice Vote: All in favor. **The motion carries 7-0.**

**Chairman Announcements:** Next meeting will be Wednesday, February 4th, 2026.

Susan Gilmore has resigned and the seat for District 7 is open.

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## **OLD BUSINESS**

None

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## **NEW BUSINESS**

**- BZA-25-94: 23 Lilac Ave. (District 1) - Relief from the Landscape Requirements**

**Request(s):** Reduction in the landscape street yard from 8 feet to 4 feet in width.

**Case Presentation and Discussion:** Levi Witt presented the case to the Board.

Applicant John Muhs of Austin Engineering was present with the project's landscape architects and explained that the site currently includes an access area over 100 feet wide and a dumpster pad within the right-of-way, which will be removed to construct a new entrance allowing two-way traffic at the church entrance. At the Board's request, these elements were referenced on the site plan, and additional parking lot plans were discussed to demonstrate the need for the requested variance. Landscape architect Kaitlin Pilgrim stated that the project meets the required number of trees and landscaping elements, though they are placed in other areas of the site. Landscape Architect Karna Levitt confirmed she had reviewed the plans. In response to questions regarding hardship, the applicant explained that fire department requirements for driveway width and the existing building's proximity to the right-of-way limit available space. It was further clarified that all landscaping must remain on the applicant's property and cannot encroach on city property, and that the request is only to reduce the width of the planting area, noting that its adjacency to green space provides sufficient area for plantings to thrive.

**Community Comments:**

None.

**Board Motion and Vote:**

- *Bob Geier* made a motion to **APPROVE** case #: BZA-25-94: 23 Lilac Ave. reduction in landscape street yard from 8ft to 4 ft for the boxed section on the site plan only.

*Paul Betbeze* seconded the motion.

**Roll Call Vote:**

Bob Geier: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: No

Lee Brock: Yes

Victoria Johnson: Yes

**The motion carries 6-1.**

**- BZA-25-100: 8934 Lee Hwy. (District 6) - Appeal of Sign Permit Rejection**

**Request(s):** Denial of sign permit SIGN-25-475 for a billboard based on Sec 3-55.

**Case Presentation and Discussion:** Levi Witt presented the case to the Board.

The Board requested Zoning Code Inspector Zak Wiley to speak prior to the applicant. Zak asked for clarification on whether the Board was hearing the case as an appeal of a denial or an interpretation of the code, and the Board confirmed it was an appeal of the denial. He then asked the City Attorney whether the applicant for the permit and the appellant must be the same, to which the City Attorney responded that this was acceptable as long as the appeal represented the same project. Zak then explained why the sign permit application was denied, reviewing the applicable code provisions and specific permit requirements. The Board asked the City Attorney to brief both the Board and attendees on the scope of the Board's authority in hearing and ruling on appeals. Applicant Steve Blackshear stated that he had extensive information to present but wished to summarize it for the Board and requested a deferral of the matter to the following month.

**Community Comments:**

None.

**Board Motion and Vote:**

- Victoria Johnson made a motion to **DEFER** case #: BZA-25-100: 8934 Lee Hw.. to the February meeting.

Paul Betbeze seconded the motion.

**Roll Call Vote:**

Bob Geier: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: Yes

Lee Brock: Yes

Victoria Johnson: Yes

**The motion carries 7-0.**

**- BZA-25-101: 995 Airport Rd. (District 5) - Building Height Variance**

**Request(s):** Relief from Ch. 8-5 Height Limits: for an increase in building height from 35 feet to 50 feet for a new parking structure.

**Case Presentation and Discussion:** Levi Witt presented the case to the Board.

Applicant Robert Stephens, representing the general contractor for the airport, presented plans for a new garage, explaining that it is essentially an extension of the existing structure with a slightly larger footprint but the same height. He noted that the project is being brought before the Board while awaiting a letter from the FAA and requested that any approval be contingent upon receipt of that letter. The Board asked Staff why a variance was needed, and Assistant Director Darien Gilkenson explained that both FAA and City processes must be followed to permit construction of the new parking garage. When questioned about hardship and the

justification for approval, it was clarified that the request is a special permit for an increase in height, and therefore the typical hardship requirements for variances do not apply.

### **Community Comments:**

None.

### **Board Motion and Vote:**

- *Rudolph Foster* made a motion to **APPROVE** case #: BZA-25-101: 995 Airport Rd., for the special permit to allow the building height increase from 35ft to 50ft..

*Victoria Johnson* seconded the motion.

#### Roll Call Vote:

Bob Geier: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: Yes

Lee Brock: Yes

Victoria Johnson: Yes

**The motion carries 7-0.**

- **BZA-25-113: 6116 Shallowford Rd Unit 101, (District 6) - Appeal of an Interpretation of the Sign Code**

**Request(s):** Appeal the interpretation of sign code Sec. 3-177 (5).

**Case Presentation and Discussion:** Levi Witt presented the case to the Board.

Assistant Director Darien Gilkenson presented the City's position regarding the interpretation of the sign code under appeal. Applicant Dewayne Mullis, representing the property owner as the sign company's representative, stated that he did not understand the road frontage requirement, noting that the building is L-shaped and has over 500 feet of total building frontage. The Board asked for clarification on which frontage he was referencing and requested that he indicate it on the plan; he acknowledged that the building entrance is only 70 feet wide. The Board reviewed the building layout and frontage with the applicant and then requested details about the proposed sign. Staff confirmed that the existing sign is compliant, but the proposed sign would not meet code requirements. The Board discussed a related variance, noting that if the variance were approved, the interpretation would no longer be necessary, which Darien Gilkenson confirmed. The Board also asked whether there is an entrance off the side road, and it was confirmed that there is not. Finally, the Board requested further explanation from Darien Gilkenson on the City's position and reviewed street-view images to observe existing signage along the road where the new sign is proposed.

### **Community Comments:**

Councilwoman Jenni Berz, representing District 6, stated that she is not opposed to the larger sign but noted that the area is transitional, leading from commercial to residential zones. She emphasized the need to be cautious about setting a precedent for larger signs in the area and requested a more detailed rendering showing the sign's appearance in real time. The Board asked whether she had concerns regarding the sign's illumination or formatting, and she expressed concern that the proposed sign could be offensive.

### **Board Motion and Vote:**

- Victoria Johnson made a motion to **DEFER** case #: BZA-25-113 & 102: 6116 Shallowford Rd Unit 101, to the February meeting.

*Paul Betbeze* seconded the motion.

**Voice Vote:**

All in favor. **The motion carries 7-0.**

## **10 minute break.**

- **BZA-25-103: 5053 Hunter Rd. (District 6)** - Special Exception: Drive-Thru Facility

**Request(s):** Special Exception Permit for a Drive-Thru Facility in the C-C zone.

**Case Presentation and Discussion:** Levi Witt presented the case to the Board.

Applicant Will Robinson, the civil engineer for the project and franchisee of the restaurant, confirmed that the previous business at the location was a Krystal. He explained that the drive-thru is an essential part of the company's business model, noting that while there is ample indoor dining, a significant portion of business comes from pick-up orders. The Board then asked the applicant to indicate the location of the drive-thru and the corresponding access points on the site plan.

**Community Comments:**

None.

**Board Motion and Vote:**

- Victoria Johnson made a motion to **APPROVE** case #: BZA-25-103: 5053 Hunter Rd., for special exception for a drive-thru facility in the C-C zone.

*Lee Manuel* seconded the motion.

**Roll Call Vote:**

Bob Geier: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: Yes

Lee Brock: Yes

Victoria Johnson: Yes

**The motion carries 7-0.**

- **BZA-25-106: 5053 Hunter Rd. (District 6)** - Increase to Maximum Parking Variance

**Request(s):** Increase the maximum number of allowed parking spaces from 31 spaces to 54 spaces

**Case Presentation and Discussion:** Levi Witt presented the case to the Board.

Applicant Will Robinson explained to the Board that the restaurant offers indoor dining and operates as a fast-casual facility, meaning customers tend to stay longer than at typical quick-service restaurants. He noted that the restaurant will have approximately 25 staff on any given day and must provide handicap-accessible parking, which necessitates additional parking spaces for diners. When asked, he confirmed that the previous

Krystal location had around 32 parking spots, and the new business is seeking to increase that number. In response to questions about hardship, Robinson stated that the franchiser sets parking requirements based on the building's square footage, and the current site limits the number of spaces available; expanding the building to add more parking would conflict with the business model. The Board then asked the City Attorney to read the hardship requirements into the record.

#### **Community Comments:**

None.

#### **Board Motion and Vote:**

- Victoria Johnson made a motion to **APPROVE** case #: BZA-25-106; 5053 Hunter Rd. to increase the maximum number of allowed parking spaces from 31 spaces to 54 spaces due to an irregularly shaped lot.

Paul Betbeze seconded the motion.

#### Roll Call Vote:

Bob Geier: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: No

Lee Brock: Yes

Victoria Johnson: Yes

**The motion carries 6-1.**

#### **- BZA-25-104: 5406 Virginia Ave. (District 1) - Setback Reduction Variance**

**Request(s):** Reduction in the rear setback from 25 feet to 12.5 feet for a deck to screened porch conversion and a side setback reduction from 3 feet to 0 feet [Table 38-48.1 Permitted Encroachments Into Required Setbacks: Canopy - Max of 2 feet permitted encroachment into the interior side setback].

**Case Presentation and Discussion:** Levi Witt presented the case to the Board.

Applicant Matthew Ballard, representing the property owners, stated that the owners purchased the house about a year ago and now wish to add a canopy over the driveway and enclose a rear deck. The project was previously approved by the Historic Zoning Commission for design, and the variances are now needed to proceed with construction. The Board asked Ballard to indicate the location of the canopy and the placement of its posts, to which he responded that the posts will sit on the existing concrete slab and include a gutter system to prevent runoff into neighboring yards. Regarding the rear deck, the Board noted that it is currently permitted to encroach, but enclosing it requires compliance with the 25-foot setback. When asked about hardship, Ballard cited the lot's restrictions and other factors that would improve daily living in the home. The Board also inquired about water runoff from the canopy and confirmed with the applicant that no part of the structure would extend onto the neighbor's property.

#### **Community Comments:**

None

#### **Board Motion and Vote:**

- *Paul Betbeze* made a motion on case #: BZA-25-104: 5406 Virginia Ave., to **APPROVE** the reduction in the rear setback from 25 ft to 12.5 ft and to **DENY** the side setback from 3 ft to 0 ft.

*Bob Geier* seconded the motion.

Roll Call Vote:

Bob Geier: Yes

Scott McColpin: No

Paul Betbeze: Yes

Rudolph Foster: No

Joe Manuel: No

Lee Brock: Yes

Victoria Johnson: No

**The motion fails 4-3.**

- *Lee Brock* made a motion on case #: BZA-25-104: 5406 Virginia Ave., to **APPROVE** the reduction in the rear setback from 25 ft to 12.5 ft due to shallowness of the lot.

*Paul Betbeze* seconded the motion.

Roll Call Vote:

Bob Geier: Yes

Scott McColpin: No

Paul Betbeze: Yes

Rudolph Foster: No

Joe Manuel: No

Lee Brock: Yes

Victoria Johnson: No

**The motion fails 4-3.**

- *Joe Manuel* made a motion on case #: BZA-25-104: 5406 Virginia Ave., to **DENY** the reduction in the rear setback from 25 ft to 12.5 ft due to shallowness of the lot.

*Bob Geier* seconded the motion.

Roll Call Vote:

Bob Geier: Yes

Scott McColpin: No

Paul Betbeze: No

Rudolph Foster: Yes

Joe Manuel: Yes

Lee Brock: No

Victoria Johnson: Yes

**The motion passes 4-3.**

- *Joe Manuel* made a motion on case #: BZA-25-104: 5406 Virginia Ave., to **DENY** the reduction in the side setback from 3ft to 0ft

Rudolph Foster seconded the motion.

Roll Call Vote:

Bob Geier: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: Yes

Lee Brock: No

Victoria Johnson: Yes

**The motion passes 4-3.**

**- BZA-25-105: 442 E View Dr. (District 9) – Setback Reduction Variance**

**Request(s):** Reduction in the front setback from 25 feet to 0 feet for new construction.

**Case Presentation and Discussion:** Levi Witt presented the case to the Board.

**Joe Manuel left the meeting at 12:12PM.**

**New Voting Majority: 6 members present – 4 is majority.**

Applicant Gary Crowe stated that the hardship is due to the property's topography, which he was aware of when he purchased it. Robert Rogers, who owns the lot across the street, explained that he built a garage there approximately 20 years ago, set 25 feet back from the road. Crowe outlined his plan to build a single-family home, requesting a 1.8-foot setback for the garage only, while the main house will comply with the required 25-foot front setback. He confirmed that he purchased the property a few months ago and that the garage will be approximately 20 feet in length, noting that the wide right-of-way necessitates the reduced setback. The Board asked Transportation Specialist Caleb Fisher whether the variance would create traffic or visibility concerns; Fisher indicated that, with no planned road expansions, there should be no issues. He also noted that approving the request would allow for 4-5 additional parking spaces, reducing the need for on-street parking.

**Community Comments:**

Several neighbors spoke in opposition to the variance request. Robert Rodgers, owner of the garage on the adjacent property, stated that while he had no issues building his garage, he opposes this request. Rita Heckrotte of 400 S Crest Rd noted that homeowners have worked over the past decade to improve the street, and she believes ignoring the setback would make the house out of character for the neighborhood. Quinton Fannin of 430 S Crest Rd, directly across from the property, described E View as narrow—more like an alley—and cited restrictions for larger vehicles, expressing concern for safety. Melanie Coakley of 422 E View Dr highlighted concerns about retaining walls, street deterioration, angled driveways, on-street parking, and increased traffic, stating that the road is unsafe for pedestrians and opposing the request. Donnie Hutcherson of 404 S Crest Rd shared photos of a previous home built by the applicant, emphasizing that neighborhood character has been compromised and neighboring houses were quickly put up for sale due to the impact. Virginia Rodgers of 438 S Crest Rd noted safety concerns from traffic and previous construction blocking the road. Ann Rodgers of 220 N Crest Rd, president of the Missionary Ridge Neighborhood Association, expressed concern about large new homes altering the historic character of the area. Deanne Schiller, who lives nearby, stated that while the applicant has been accommodating, larger builds block the road and do not respect neighborhood setbacks, negatively impacting residents' daily lives. All speakers opposed the variance.

**Applicant Response:**

The applicant responded by acknowledging the community's concerns and emphasizing that the proposed building will add more parking. He addressed issues from the previous construction, noting challenges with delivering materials, and explained that they own the adjacent lot, which will be used for material staging and temporary parking during construction. He stated that if the variance is not approved, parking would be limited, potentially forcing residents and visitors to park on the street. The applicant also highlighted that prior builds have contributed to increasing property values in the neighborhood.

#### **Board Motion and Vote:**

- *Paul Betbeze* made a motion to **DENY** case #: BZA-25-105: 442 E View Dr..

*Bob Geier* seconded the motion.

#### Roll Call Vote:

Bob Geier: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Lee Brock: Yes

Victoria Johnson: Yes

**The motion carries 6-0.**

- **BZA-25-107: 5771 Brainerd Rd. (District 5) - Relief from the Brainerd Overlay Requirements, and Increase to Maximum Parking Variance**

**Request(s):** Relief from the Brainerd Overlay Requirements to increase the maximum building setback from 26 feet to 90.6 feet [Sec 38-35 (5) (c) iii. a.] and relief from a drive-thru lane not allowed in the Building/Storefront Zone within the Brainerd Overlay [Sec 38-35 (5) (c) i. c.], and also to increase the number of allowed parking spaces from 4 spaces to 10 spaces.

**Case Presentation and Discussion:** Levi Witt presented the case to the Board.

Applicant Tyler Brown explained that certain aspects of the site plan, including the drive-thru lane, prompted the request for a 90-foot setback increase. When asked if the project could proceed without the variance, he stated that site limitations imposed by the Brainerd Overlay restrict them to only one curb cut per a specified distance—157 feet in this case—while the design requires at least two curb cuts for proper functionality. The Board confirmed that the facility would be strictly drive-thru with no sit-down dining. Transportation Specialist Caleb Fisher clarified that curb cut limitations are governed not only by the Brainerd Overlay but also by CDOT requirements.

#### **Community Comments:**

None

#### **Board Motion and Vote:**

- *Rudolph Foster* made a motion to **APPROVE** case #: BZA-25-107: 5771 Brainerd Rd., for relief from the Brainerd Overlay Requirements to increase the building setback from 26 ft to 90.6 ft and to allow the drive-thru lane in the Building/Storefront Zone and to increase the number of allowed parking spaces from 4 to 10.

*Bob Geier* seconded the motion.

Roll Call Vote:

Bob Geier: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Lee Brock: Yes

Victoria Johnson: Yes

**The motion carries 6-0.**

**- BZA-25-109: 5771 Brainerd Rd. (District 5) - Special Exception: Drive-Thru Facility**

**Request(s):** Special Exception Permit for a Drive-Thru Facility in the C-C zone.

**Case Presentation and Discussion:** Levi Witt presented the case to the Board.

Applicant Tyler Brown stated that the project is for a coffee shop that will operate as a drive-thru only, with parking required primarily for employees and a limited number of customers who may walk up to the service window.

**Community Comments:**

None

**Board Motion and Vote:**

- Rudolph Foster made a motion to **APPROVE** case #: BZA-25-109: 5771 Brainerd Rd., for a special exception permit for a drive-thru facility in the C-C zone..

Bob Geier seconded the motion.

Roll Call Vote:

Bob Geier: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Lee Brock: Yes

Victoria Johnson: Yes

**The motion carries 6-0.**

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## **OTHER INFORMATION**

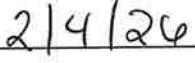
Staff Update: We will have the required annual ethics training at the February meeting. Staff informed the Board that they would need to arrive 30 minutes early for the training.

**Chair Scott McColpin motioned to adjourn the meeting.  
The meeting was adjourned at 1:16 PM.**

  
\_\_\_\_\_  
Scott McColpin, Chairman

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Shelby Ogle, Admin

  
\_\_\_\_\_  
Date