



# BOARD OF ZONING APPEALS

## MEETING MINUTES

July 3rd, 2024

The duly advertised meeting of the Board of Zoning Appeals was held on July 3rd, 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

**Members Absent:** Lee Brock, J.T. McDaniel

**Staff Members Present:** 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:** Lori Roberson swore in people addressing the Committee.

**Applicant(s) Present:** Wayne Williams, Grant Cobb, John Biffle, Mike Price, David Hudson

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

**Approve Minutes:** Chairman Scott McColpin presented the June 5th, 2024 Meeting Minutes to be voted on. No amendments need to be made. Ray Adkins motioned to **APPROVE** the June minutes. Joe Manuel seconded the motion. **All in favor. The motion carries 7-0.**

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

**Agenda Update:** **BOZA-24-15 - 510 Dodson Ave. (D-8) - Parking Variance, Special Permit** - The Board does not have the authority to rule on the parking variance and the application must be withdrawn. Scott McColpin motioned to **WITHDRAW** case #: BOZA-24-15 - 510 Dodson Ave. without prejudice. Ray Adkins seconded the motion. No discussion. **All in favor. The motion carries 7-0.**

## OLD BUSINESS

### **- BOZA-24-21 - 511 Rosewood St. (D-2) - Interpretation of Regulation, Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Wayne Williams of 1420 McCallie Dr, presented to the Board that he is there representing Margaret Fletcher (the owner of 511 Rosewood St). He stated that they are requesting a front setback reduction of 17 feet from 25 feet and a reduction in the buildable area requirement due to oversight in zone requirements when the property was rezoned as well as the topography. The Applicant then stated that the variance request on the public notification letters was incorrect.

**Community Response:** Scott Hunnewell of 401 Fox Trl in Georgia is present for son (Tristan Hunnewell) who resides behind the property in question. He stated to the Board that they are not in opposition to the variance request if it is in the front of the house and not the rear. He stated that he believes a reduction in the front setback would be compatible with the neighborhood. He also stated that he does not believe that his son, Tristan Hunnewell, would be opposed to the reduction in the buildable area requirement.

David Neff of 507 Rosewood St (south of the property in question) presented to the Board some of the history in regards to the rezoning of the neighborhood and they were in opposition to the rezoning. He also stated that he is concerned about the proposed house encroaching on his property line and his privacy fence. At the recommendation of the Board, he stated he would be willing to work with the Applicant on a site plan that is agreeable to both parties.

**Discussion:** The Board had a brief discussion about how they cannot prevent the Applicant from building on the lot line, because the zone allows for that. The Board also discussed moving the case to the end of the agenda and the Applicant brought back up to the Board about the incorrect variance request being on the public notification letters. The Board wishes to defer the case another month to allow for proper public notification.

**Board Motion and Vote:**

- Paul Betbeze made a motion to **DEFER** case #: BOZA-24-21 - 511 Rosewood St., for one month to the August BOZA meeting to allow for Staff to do updated public notifications.

Joe Manuel seconded the motion.

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

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## **NEW BUSINESS**

### **- BOZA-24-46 - 6685 Hickory Trace Cir. (D-6) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Grant Cobb of 6685 Hickory Trace Cir presented to the Board that he wants to add an addition to the rear of his townhome. He stated that he has approval from the Association and also from the owner of the property behind the house nearest where the addition would be completed. The Applicant also stated he has letters of support from the neighborhood. He stated that he wants to build the addition to look like it was there before the existing deck.

**Community Response:** Councilwoman Carol Berz of District 6 presented to the Board that the Neighborhood Association for where the property is located requested she come and show support for the addition. No other community comments.

**Discussion:** The Board had a discussion with the Applicant about the dimensions of the addition and how it relates to the existing deck that is located at the back of the house. They also discussed whether there would be a roof over the new proposed addition. The Applicant stated to the Board that the addition will be a screened-in porch. The Board discussed whether the addition would fall under the nonconforming rule because of the existing nonconforming deck.

**Board Motion and Vote:**

- Alan Richelson made a motion to **APPROVE** case #: BOZA-24-46 - 6685 Hickory Trace Cir. as submitted, for a reduction in rear setback from 25ft to 12ft with no conditions.

Paul Betbeze seconded the motion.

Amendment to motion: The request is no less nonconforming.

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

### **- BOZA-24-48 - 5970 Brainerd Rd. (D-6) - Relief from the Brainerd Overlay**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Michael Price of 7380 Applegate Ln presented to the Board that they are planning to demolish the existing building on the property and build a smaller coffee shop. He stated that they believe that the proposed site plan meets the intent of the Brainerd Overlay. The Applicant stated that there are two site plans that have been submitted for review.

**Community Response:** Councilwoman Carol Berz presented to the Board that she believes that this proposed coffee shop is what the community wants and that the community wants larger sidewalks and the addition of landscaping is

very important. She presented to the Board that she and the community are in support of the proposed coffee shop. No other community comments.

#### → **Variance Request A: Relief from the Front Setback Requirement**

**Discussion:** The Board had a discussion and questions for the Applicant about this request. The Applicant stated that they are wanting to separate the drive-thru from the sidewalk and would like to use some landscaping potentially. He stated that they have considered making a planter and planting shrubs. Landscape Architect Karna Levitt presented to the Board that it was her understanding that the sanctuary sewer department would no longer allow shrubs to be planted over sewer easements. The Applicant stated that they are willing to work with the sanitary sewer department to find a compromise that works for both parties.

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

- Alan Richelson made a motion to **APPROVE** variance request A of case #: BOZA-24-48 - 5970 Brainerd Rd. as submitted, for relief from the front setback requirement (increase request from 26ft to 29ft) with no conditions.

Paul Betbeze seconded the motion.

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

#### → **Variance Request B: Relief from the Street Yard Plantings and Street Tree Requirements**

**Discussion:** The Applicant stated to the Board that the trees that are currently required would be planted elsewhere within the property. Landscape Architect Karna Levitt presented to the Board that she would like them to allow some flexibility with the sewer easement placement and the tree requirement to allow them to be planted elsewhere if not allowed to plant over the easement. The Board informed the Applicant that he would need to work and communicate with Karna and the sanitary sewer department.

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

- Alan Richelson made a motion to **APPROVE** variance request B of case #: BOZA-24-48 - 5970 Brainerd Rd. as submitted, for relief from the street yard plantings and street tree requirements with the following conditions:
  - Details to be flexible and to be decided by Landscape Staff and Sewer Staff.
  - All plantings to remain on the property.

Paul Betbeze seconded the motion.

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

#### → **Variance Request C: Relief from Drive-Thru Lane Restrictions**

**Discussion:** The Board asked the Applicant questions regarding the functionality of the drive-thru and the Applicant stated that the traffic will flow clockwise around the building. The Applicant stated that there is another drive-thru that is in the neighborhood that sets the precedent to allow the drive-thru.

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

- Alan Richelson made a motion to **APPROVE** variance request C of case #: BOZA-24-48 - 5970 Brainerd Rd. as submitted, for relief from the drive-thru lane restrictions to allow a drive-thru in the front of the property with no conditions.

Paul Betbeze seconded the motion.

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

#### → **Variance Request D: Relief from the Multi-Use Path Width Requirement**

**Discussion:** The Applicant presented to the Board that they want to have the sidewalks as wide as possible, but given the amount of space on the property, they need relief from the multi-use path requirement to accommodate the site and the plan. The Applicant wants to allow space for some landscaping as well.

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

- Alan Richelson made a motion to **APPROVE** variance request D of case #: BOZA-24-48 - 5970 Brainerd Rd. as submitted, for relief from the multi-use path width requirement (decrease request from 12ft to 6ft) with no conditions.

Paul Betbeze seconded the motion.

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

**- BOZA-24-47 - 820 Aubrey Ave. (D-9) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant John Biffle of 820 Aubrey Ave presented to the Board that he wanted to have somewhere to keep his boat out of the weather. The Applicant has already built the addition and it was built over an existing concrete pad.

**Community Response:** No response.

**Discussion:** The Board asked the Applicant several questions in regards to the construction of the addition and how it relates to the fence. They also asked the Applicant about when the fence was built and if it was on the Applicant's property or not.

**Board Motion and Vote:**

- Paul Betheze made a motion to **APPROVE** case #: BOZA-24-47 - 820 Aubrey Ave., as submitted, for a reduction in the right side setback from 5ft to 2ft with no conditions.

Ray Adkins seconded the motion.

**6 in favor. Joe Manuel abstained. The motion carries 6-0-1.**

**- BOZA-24-50 - 207 Spears Ave. (D-1) - Special Permit**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. The Applicant David Hudson of 1435 Market St. presented to the Board that they are an addiction recovery facility and they are wanting to build an apartment complex for the patients who have graduated out of their program. They are wanting to build 16 one bedroom apartments. They stated that they were granted a special services permit in 2016 for building a different set of apartments.

**Community Response:** No response.

**Discussion:** The Board asked the Applicant several questions about the usage of the apartments they are wanting to build. They stated that it is supportive housing for their patients only. The Applicant stated that the apartments are not meant to be for public use - they are meant to be a social service use only. The Applicant also stated that they are going before the Form-Based Code Committee to ask for a major modification for the door placement.

**Board Motion and Vote:**

- Ray Adkins made a motion to **APPROVE** case #: BOZA-24-50 - 207 Spears Ave., as submitted, for a Special Permit to allow for a social service use in the E-IX Industrial Mixed Use zone.

Rudolph Foster seconded the motion.

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

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## Other Business

- Chairman Scott McColpin announced that City Council passed an ordinance giving the Board authority to hear and rule on zoning overlays.
- City Attorney Andrew Trundle reminded the Board of the required training that will be held on July 18th.

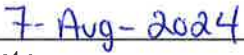
**Joe Manuel motioned to adjourn the meeting.**

**Rudolph Foster seconded the motion.**

**Meeting was adjourned at 11:42 a.m..**



Scott McColpin, Chairman



Date



Shelby Ogle, Admin



Date