



# BOARD OF ZONING APPEALS

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## MEETING MINUTES

March 6th, 2024

The duly advertised meeting of the Board of Zoning Appeals was held on March 6th, 2024, at 10:00 a.m. in conference room 1A of the Development Resource Center Building. Chair Scott McColpin called the meeting to order. Court Reporter Lori Roberson swore in all those who would be addressing the Committee.

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

**Members Absent:** Susan Gilmore

**Staff Members Present:** Presenter Levi Witt, FBC Development Review Planner Akosua Cook, City Attorney Andrew Trundle, Landscape Architect Karna Levitt, Transportation Review Specialist Caleb Fisher, Court Reporter Lori Roberson

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

**Applicant(s) Present:** Walter Stone, Benjamin Dunn, Donna Shepherd, Caleb Dill, George Judzewitsch, Kristen Spearman, Lentorry Coleman, Michael Cardillo, Kevin Smith, Emily Campbell, Jimmy Obando

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

**Approve Minutes:** Ray Adkins makes a motion to approve the January meeting minutes. Alan Richardson seconds the motion. **All in favor. The motion carries 8-0.**

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

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## OLD BUSINESS

- **BOZA-23-71 - 26 Hemlock Cir. (D-1) - Setback Variance**

Applicant requested to withdraw the case.

- Scott McColpin made a motion to **WITHDRAW** case #: BOZA-23-71 - 26 Hemlock Cir. without prejudice. Paul Betbeze seconded the motion.

**All in favor. The motion carries 8-0.**

- **BOZA-23-72 - 32 Hemlock Cir. (D-1) - Setback Variance**

Applicant requested to withdraw the case.

- Scott McColpin made a motion to **WITHDRAW** case #: BOZA-23-72 - 52 HEMLOCK CH. without prejudice. Ray Adkins seconded the motion.

**All in favor. The motion carries 8-0.**

- **BOZA-23-75 - 504 Tremont St. (D-2) - Relief from Lot Requirements**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Walter Stone of 1150 Tazewell Pike presents to the Board that they are requesting relief from Sec. 38-23 (Lot Size Not to be Reduced) and Sec. 38-44 (Minimum Lot Area). Applicant states that the Regional Planning Office cannot subdivide the lot without a survey and an approved variance request. The Board had a discussion about their authority to grant a lot size variance and also had several questions for the Applicant.

**Community Response:** No response.

**Board Motion and Vote:**

- Paul Betbeze made a motion to **DENY** case #: BOZA-23-75 - 504 Tremont St. Alan Richelson seconded the motion.

**All in favor. The motion carries 8-0.**

- **BOZA-23-78 - 5934 Old Dayton Pike. (D-1) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Benjamin Dunn of 5934 Old Dayton Pike presents to the Board that they are asking for a front setback reduction from 25' to 15' and a rear setback reduction from 25' to 10' to allow for new construction of potentially a duplex. The Board then had several questions for the Applicant and a discussion on the request.

**Community Response:** No response.

**Board Motion and Vote:**

- Ray Adkins made a motion to **APPROVE** case #: BOZA-23-78 - 5934 Old Dayton Pike. Paul Betbeze seconded the motion.

**7 in favor. Joe Manuel opposed. The motion carries 7-1.**

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## **NEW BUSINESS**

- **BOZA-24-1 - 1580 S. Watkins St. (D-9) - Parking Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Donna Shepherd of ADU Engineering at 537 Market St. #202 presents that they are requesting to be allowed to have parking in the front of the building along the roadway. Applicant explains the area development plan they have and the Board asks a few questions. Chair Scott McColpin asked the City Attorney about the Board's authority for overriding the City Ordinance.

**Community Response:** No response.

**Board Motion and Vote:**

- Scott McColpin made a motion to **MOVE** case #: BOZA-24-1 - 1580 S. Watkins St. to the end of the agenda. Lee Brock seconded the motion.

**All in favor. The motion carries 8-0.**

- **BOZA-24-3 - 531 Woodland Ave. (D-2) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Caleb Dill of 531 Woodland Ave presents to the Board that they are requesting a setback reduction from 5' to 3' for an addition to the rear of the house. Applicant states that the lot is an unusual shape and the Board had some additional questions about the potential issue with running into the side setback. Board had some more discussion.

**Community Response:** No response.

**Board Motion and Vote:**

- Paul Betbeze made a motion to **APPROVE** case #: BOZA-24-3 - 531 Woodland Ave. per site plan presented by the Applicant and only applies to the addition. Alan Richelson seconded the motion.

**All in favor. The motion carries 8-0.**

- **BOZA-24-4 - 1604 Greenwood Rd. (D-5) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Jimmy Obando of 1604 Greenwood Rd. presents to the Board that they are requesting a setback reduction from 10' to 5' on the left side of the property for a new house to be built. Applicant states that the neighbor has built a deck onto their property and have come to an agreement about removing part of the deck and sharing a driveway to allow for space for the new construction. Board had some questions for the Applicant as well as additional discussion.

**Community Response:** No response.

**Board Motion and Vote:**

- Joe Manuel made a motion to **MOVE** case #: BOZA-24-4 - 1604 Greenwood Rd. to the end of the meeting before adjourning. Lee Brock seconded the motion.

**All in favor. The motion carries 8-0.**

- **BOZA-24-6 - 2907 14th Ave. (D-7) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant George Judzewitsch of 9241 Standifer Gap Rd. presents to the Board that they are requesting a front setback reduction from 25' to 15' at the front of the property for new construction due to an irregular lot shape.

**Community Response:** Alice Leroy, owner of property directly attached to the property in question, presents to the Board that she has lived there for 20 years. She has concerns about the new construction, stating that the road is only one-lane and wants to know where they are planning to put the driveway.

Linda Richards lives at property on the same street as the property in question and presents to the Board that the street is narrow and wants to make sure that there is off the street parking for occupants.

**Applicant Response to Community Concerns:** Applicant states that there will be a driveway and then a one car garage within the house.

**Board Motion and Vote:**

- Paul Betbeze made a motion to **APPROVE** case #: BOZA-24-6 - 2907 14th Ave. per the site plan that is presented with a driveway. Rudolph Foster seconded the motion.

**All in favor. The motion carries 8-0.**

- **BOZA-24-8 -1704 North Ave. (D-2) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Kristin Spearman of 1704 North Ave. presents to the Board that they are requesting a setback reduction on the left side of the lot from 5' to 3' and the rear from 25' to 10' for a new addition of a one-story garage with a vaulted roof. The Applicant states that there are existing structures that they are wanting to remove and replace with their structure.

**Community Response:** Paul Fuchar, a member of the same neighborhood, states that he believes that the requested setback variance is too much. He states that he had an approved variance from the Board previously for a smaller setback variance, but expresses concerns about the proposed plan.

**Board Motion and Vote:**

- Paul Betbeze made a motion to **APPROVE** case #: BOZA-24-8 - 1704 North Ave. with the following condition:
  - Must keep the garage addition to one-story.

Joe Manuel expressed concern that the Board is not being consistent and believes that the hardship was not proven in this case. He has stated that he will abstain from voting on this case, because he wants to remain consistent.

**6 in favor - Alan Richelson opposed - Joe Manuel abstained. The motion carries 6-1-1.**

**- BOZA-24-9 - 1705 S. Orchard Knob Ave. (D-8) - Special Permit**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Lentorry Coleman of 1705 S. Orchard Knob Ave. presents to the Board that they are requesting a special permit to allow for a duplex to be put on a Lot of Record.

**Community Response:** No response.

**Board Motion and Vote:**

- Lee Brock made a motion to **APPROVE** case #: BOZA-24-9 - 1705 S. Orchard Knob Ave.. Paul Betbeze seconded the motion.

**All in favor. The motion carries 8-0.**

**- BOZA-24-10 - 5307 Beulah Ave. (D-7) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Stephen Nichols owner of 5307 Beulah Ave presents to the Board that they are requesting a setback variance of 25' to 9' in the rear of the property for a new addition. The Applicant states that they want to close in a porch, among other updates and requests to change the rear setback variance request from 9' to 6'.

**Community Response:** No response.

**Board Motion and Vote:**

- Rudolph Foster made a motion to **APPROVE** case #: BOZA-24-10 - 5307 Beulah Ave.. Lee Brock seconded the motion.

**All in favor. The motion carries 8-0.**

**- BOZA-24-11 - 1248 N. Concord Rd. (D-6) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Kevin Smith of 1248 Concord Rd. presents to the Board that they are requesting a setback reduction of 25' to 7' at the front of the property for a new addition, which is an accessory structure in the front yard. Scott McColpin suggested that the Applicant defer the case to the May meeting to allow time for proper public notification of what is being requested.

**Board Motion and Vote:**

- Scott McColpin made a motion to **DEFER** case #: BOZA-24-11 - 1248 N. Concord Rd.. Alan Richelson seconded the motion.

**All in favor. The motion carries 8-0.**

**- BOZA-24-12 - 5231 Wilbanks Dr. (D-3) - Special Permit**

Joe Manuel recused himself from this case.

**Voting Majority Update:** 8 members present - 1 recused - 7 voting - 4 is the majority.

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Emily Campbell of 5231 Wilbanks Dr. presents to the Board that they are requesting a special permit to operate a daycare center for approximately 60, 3-5 year old children. The Board stated that the Applicant would need to schedule a pre-submittal meeting with the Land Development Office staff upon approval of the special permit. The Board then asked the Applicant a few more questions.

**Community Response:** No response.



**Board Motion and Vote:**

- Paul Betbeze made a motion to **APPROVE** case #: BOZA-24-12 - 5231 Wilbanks Dr. Rudolph Foster seconded the motion.  
**7 in favor - Joe Manuel recused. The motion carries 7-0.**
- **BOZA-24-4 - 1604 Greenwood Rd. (D-5) - Setback Variance**

**Update from the Board:** The Applicant's deed is dated 1951 therefore the property in question in a Lot of Record and no variance is needed.

**Board Motion and Vote:**

- Scott McColpin made a motion to **WITHDRAW** case #: BOZA-24-4 - 1604 Greenwood Rd. without prejudice. Paul Betbeze seconded the motion.  
**All in favor. The motion carries 8-0.**

**Scott McColpin made a motion to temporarily adjourn. Paul Betbeze seconded the motion.**

**All in favor. The motion carries 8-0.**

A Special Called Meeting will be scheduled to hear the remainder of the agenda.

  
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Scott McColpin, Chair

1-May-2024  
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Date

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Shelby Ogle, Admin

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Date

