



# BOARD OF ZONING APPEALS

## MEETING MINUTES

May 1, 2024

The duly advertised meeting of the Board of Zoning Appeals was held on May 1st, 2024, at 10:00 a.m. in conference room 1A of the Development Resource Center Building. Chair Scott McColpin called the meeting to order at 10:01 AM. 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, Susan Gilmore, J.T. McDaniel

**Members Absent:** Lee Brock

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

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

**Applicant(s) Present:** Aaron Brown, Wayne Williams, Miguel Pedro Pablo, Mark Campbell, Rocky Chambers, Matthew Gerenday, Raymond Baker, Donna Shepherd, Joe Burke

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

**Approve Minutes:** Chair Scott McColpin presented the March 6th, 2024 Meeting Minutes to be voted on. No amendments need to be made. **Alan Richelson** motioned to **APPROVE** the minutes. **Rudolph Foster** seconded the motion. **All in favor. The motion carries 8-0.**

Chair Scott McColpin presented the Special Called April 19th, 2024 Meeting Minutes to be voted on. No amendments need to be made. **Rudolph Foster** motioned to **APPROVE** the minutes. **Joe Manuel** seconded the motion. **All in favor. The motion carries 8-0.**

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

**Agenda Update:** **BOZA-24-28 - 1009 Reads Lake Rd. (D-1) - Frontage Variance** - Applicant wishes to withdraw the case. Scott McColpin motioned to **WITHDRAW** case #: BOZA-24-28 - 1009 Reads Lake Rd.. Ray Adkins seconded the motion. No discussion. **All in favor. The motion carries 8-0.**

**Jurisdiction Review:** City Attorney Andrew Trundle reviews the Board of Zoning Appeals jurisdiction from code Sec. 3-102 for addressing matters brought before them in regards to sign regulations. Joe Manuel confirmed with the City Attorney that ALL conditions within that section of the Code must be met in order for variance to be granted and also that in Sec. 3-102 (A) only one condition within that section can be met.

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## **OLD BUSINESS**

No old business to discuss.

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## **NEW BUSINESS**

### **- BOZA-24-20 - 5532 Highway 153 (D-3) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Representative Aaron Brown of Valley Signs at 9092 Jetrail Dr. presents to the Board that they need a setback variance due to the right of way and how it blooms out. If they placed the sign at the current setback, it would be behind the building and only visible for one side of the highway. The Board had several questions for the Representative in regards to the size of the sign, the location and placement as it relates to the building, and other options for the sign.

**Community Response:** Mark Litchford of 5726 Marlin Rd, owns the billboard that is right beside the establishment where the proposed sign is to be installed. He states that he has no objections to the sign as long as a variance is granted to allow the sign to be installed at the location shown on the renderings.

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

- Joe Manuel made a motion to **DENY** case #: BOZA-24-20 - 5532 Highway 153.

**Motion dies due to lack of a second.**

- J.T. McDaniel made a motion to **APPROVE** of case #: BOZA-24-20 - 5532 Highway 153. Alan Richelson seconded the motion.

**6 in favor. Joe Manuel and Scott McColpin opposed. The motion carries 6-2.**

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

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Wayne Williams who is the architect for the owner of the property, Margaret Fletcher, presents to the Board that they need a rear setback reduction variance and not an interpretation of the regulation. They need this due to the lot being rezoned before it was bought by the current owner and this has caused them to have a reduced buildable area, because the structure has to be at least 40' away from neighboring structures. The Board then had a lot of questions for the Applicant in regards to what they are proposing to build if they receive the variance. The Board would like to see a site plan showing what the Applicant is looking to build and also notifying the public again to allow them the opportunity to address the suggested plan. The Board suggests deferring the case for a couple months to the July meeting.

**Community Response:** David Neff of 507 Rosewood St. presents to the Board some context in regards to the timeline of the property getting rezoned. He states that certain lots of the neighborhood were split and rezoned in 2017 to allow that owner to sell. He states that he spoke in opposition to the rezoning when it occurred. He states that he is not opposed to the setback reduction request, just that they are concerned about the shared property line and the home they would build being close to it.

Diana Bagby of 522 Tucker St. states that this property was brought before a Board for the sewer easement that goes to Tucker St. Chair informed her that it would have been a different Board and not the Board of Zoning Appeals.

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

- Paul Betbeze made a motion to **DEFER** case #: BOZA-24-21 - 511 Rosewood St. for 2 months to the July meeting with the condition that Staff will do new public notifications. Alan Richelson seconded the motion.

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

**- BOZA-24-22 - 3718 4th Ave. (D-7) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Miguel Pedro Pablo of 3718 4th Ave presents to the Board that they received a stop work order due to a complaint from someone within the community. They are only adding onto the existing house that was already out of compliance with the setback requirements. The Board had a few questions for the Applicant.

**Community Response:** No response.

**Board Motion and Vote:**

- Susan Gilmore made a motion to **APPROVE** case #: BOZA-24-22 - 3718 4th Ave.. Paul Betbeze seconded the motion.

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

**- BOZA-24-23 - 1908 Clearview Dr. (D-4) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. APPLICANT WAS NOT PRESENT.

**Community Response:** No response.

**Board Motion and Vote:**

- Scott McColpin made a motion to **DEFER** case #: BOZA-24-23 - 1908 Clearview Dr. as a one time courtesy for 1 month to the June meeting. Paul Betbeze seconded the motion.

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

**- BOZA-24-24 - 5979 Highway 153 (D-3) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Mark Campbell, the civil engineer for the project, presents to the Board that they need a setback variance for only the canopy due to the odd shape and topography of the lot. The Board asked the Applicant several questions about other options for the canopy that would not require a variance.

**Community Response:** No response.

**Board Motion and Vote:**

- Joe Manuel made a motion to **DENY** case #: BOZA-24-24 - 5979 Highway 153.

**Motion dies due to lack of a second.**

- Susan Gilmore made a motion to **APPROVE** of case #: BOZA-24-24 - 5979 Highway 153. Paul Betbeze seconded the motion.

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

**- BOZA-24-26 - 1004 Normal Ave. (D-2) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Representative Rocky Chambers, the civil engineer for the project, presents to the Board that the lot was platted in the current shape a long time ago. The topography and the code for the zone do not allow for anything to be built on the lot. This same property has been brought before the Board two previous times and got denied both times. Owner John Sweeton of 3528 Lamar Ave. is present and states that previous contractor's drew plans not to scale. The Board then spent a lengthy amount of time asking the Representative and Owner questions in regards to the plans.

**Community Response:** Kara Mosesso of 524 Crewdson St. states that she is concerned about the potential runoff issues that building a big home on the lot would create for her property. She is also concerned about her privacy and safety, as the structure would sit above her property. She stated that the neighborhood got together and tried to buy the lot from the Owner and were refused.

Amanda Cook of 1002 Normal Ave. states that she is concerned about the precedent that would be set if the variance was granted. She is also concerned about the drainage as well as how many denials the Applicant has had before the Board already.

**Applicant Response:** The Applicant states that they understand the concerns about the drainage and stormwater. The Applicant also said that a house just sold very close to the property in question that has different setbacks than the zoning requires and is very close to what they plan to do on the property.

**Board Motion and Vote:**

- Paul Betbeze made a motion to **DENY** case #: BOZA-24-26 - 1004 Normal Ave. Rudolph Foster seconded the motion.

**5 in favor. Alan Richelson, Susan Gilmore, and J.T. McDaniel abstained. The motion carries 5-3 abstentions.**

**- BOZA-24-30 - 3556 Cottonwood Ln. (D-5) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Matthew Gerenday, general contractor for the project, states that they need the setback variance of 25' to 10' for the garage portion of the build due to the grade of the property and the shape of the lot. The Board asked the Applicant several questions regarding the plans for the house and making adjustments to keep the house within the setbacks without the variance.

**Community Response:** Bobbie McDaniel of 3554 Cottonwood Ln stated to the Board that she is concerned about the build affecting the runoff water and also concerned about the property lines. She stated that the previous contractor removed some shrubs off her land and wants to ensure that her property is not disrupted in the build.

**Board Motion and Vote:**

- Rudolph Foster made a motion to **APPROVE** of case #: BOZA-24-30 - 3556 Cottonwood Ln. Alan Richelson seconded the motion.

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

Joe Manuel left the meeting at approximately 12:35 p.m..

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

**- BOZA-24-31 - 1110 Mississippi Ave. (D-5) - Setback Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Joe Burke of 5911 Union Springs Rd., general contractor working with the owners of the property, states that they are needing the setback variance of 5' to 2' because the property line slopes inward as it comes towards the house. They cannot put the addition at the back of the house due to the slope of the land. The Board then asked the Applicant several questions in regards to the plan and where it would be on the house.

**Community Response:** No response.

**Board Motion and Vote:**

- Paul Betbeze made a motion to **APPROVE** of case #: BOZA-24-31 - 1110 Mississippi Ave. with the following condition:
  - The setback variance only applies to the addition presented.

Rudolph Foster seconded the motion.

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

**- BOZA-24-33 - 8005 Batters Place Rd. (D-4) - Frontage Variance**

**Staff/Applicant Presentation:** Levi Witt presented the case to the Board. Applicant Raymond Baker of 8005 Batters Place Rd presents to the Board that they need the variance to rebuild another home on the lot where it was destroyed in the tornados of 2020. They also planned to build an ADU on the lot for the house as well. The Board asked the Applicant several more questions about the lot, road access, and placement of the ADU.



**Community Response:** No response.

**Board Motion and Vote:**

- Scott McColpin made a motion to **APPROVE** of case #: BOZA-24-33 - 8005 Batters Place Rd.. Alan Richelson seconded the motion.

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

- **BOZA-24-34 - 2702 E. 39th St. (D-7) - Setback 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 looking for a setback variance of 25' to 10' due to the lot being a lot of record and therefore it is too small to build on within the current code guidelines. She states that the previous house was torn down and they could not rebuild within the allotted 100 days to not need the variance. The Board asked the Applicant some questions about the plan for the site.

**Community Response:** No response.

**Board Motion and Vote:**

- Susan Gilmore made a motion to **APPROVE** of case #: BOZA-24-34 - 2702 E. 39th St.. Paul Betbeze seconded the motion.

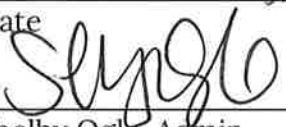
**All in favor. The motion carries 7-0.**

**Rudolph Foster motioned to adjourn the meeting.**

**Ray Adkins seconded the motion.**

**Scott McColpin adjourned the meeting at 1:02 p.m..**

  
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Scott McColpin, Chair

5-JUN-2024  
Date  
  
\_\_\_\_\_  
Shelby Ogle, Admin

6/5/24  
Date

