



BOARD OF ZONING APPEALS

MEETING MINUTES

October 2nd, 2024

The duly advertised meeting of the Board of Zoning Appeals was held on October 2nd, 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..

Board Attendance:

- ☒ Ray Adkins
- ☒ Alan Richelson
- ☒ Susan Gilmore
- ☒ Scott McColpin
- ☒ Paul Betbeze
- ☒ Rudolph Foster
- ☒ Joe Manuel
- ☒ Lee Brock
- ☐ J.T. McDaniel

Staff Attendance:

- ☒ Presenter: Levi Witt
- ☒ Admin: Shelby Ogle
- ☒ Admin: Karen Murphy-Cannon
- ☒ Zoning Code Inspector: Zachary Wiley
- ☒ Transportation: Caleb Fisher
- ☒ Court Reporter: Lori Roberson
- ☒ Landscape: 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.

Approve Minutes: Minutes will be approved at the next meeting.

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

Chairman Announcements: Next meeting will be November 6th. After the agenda is complete, the Board will discuss setting a time for training on the new zoning code.

OLD BUSINESS

- BOZA-24-75: 2108 Duncan Ave. (37404) - Landscape and Lot Size Variance

District: 9

Zone: R-3 Residential Zone

Variance Request: Reduction in lot size from 7,500 square feet to 6,666 square feet and relief from the landscape requirements.

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

Applicant Charles Adamson of 4737 Rosemary Lane, presented to the Board that they heard most of the information regarding the case at the last meeting and there was an issue with the request not being correct on the public notice and that is why the case was deferred. He stated that he has nothing new to add. Chair Scott McColpin wanted to clarify the parking lot/landscape requirement and asked Landscape Architect Karna Levitt to speak on the request. She spoke on the street yard requirement the code has and stated that it is being met by the two trees in the front of the building that the Applicant is proposing. The Applicant stated he is asking for relief to allow the trees that are required to be in the back of the property to be in the front which allows them additional parking. They also plan to add two additional trees in the right-of-way.

Board Motion and Vote:

- Paul Betbeze made a motion to **APPROVE** case #: **BOZA-24-75: 2108 Duncan Ave.**, for a reduction in the lot size requirement from 7,500 square feet to 6,666 square feet as long as the project adheres to the site plan

Rudolph Foster seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: Yes

Lee Brock: Yes

The motion carries 8-0.

NEW BUSINESS

- BOZA-24-66: 513 Sterling Ave. (37405) - Setback Reduction Variance

District: 2

Zone: R-1 Residential Zone

Variance Request: Reduction in side setback from 5 feet to 0 feet and a reduction in rear setback from 25 feet to 0 feet.

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

Applicant Katie Myles of 513 Sterling Ave presented to the Board that she bought the house and there is an existing garage that is in disrepair and they would like to make it bigger to allow for a car to fit. They stated that they want to keep it in the same place and add the extra space towards the house. She stated that the existing garage is 10 feet by 12 feet. She presented that she cannot back out safely due to a sign of sight issue. The Board then discussed if there was a hardship. The Applicant stated that there are others on the street that have a garage with the same setback that she has. The Board asked the Applicant a few more questions about the existing building as well as some questions about the primary structure.

Community Response: Harry Cash of 633 Chestnut St Suite 900 representing David Higny and Jennifer Brundig, owners of neighboring property 515 Sterling Ave presents to the Board that they are confused on what she is requesting and if she is asking for a change in where the building currently exists. He stated that the homeowners have hired an architect and plan to expand their home and state that they are worried that the setback variance would apply to the entire lot line; to which Chair McColpin informed them that the variance would only apply to the presented build and not the entire lot line or lot as a whole. Mr. Cash then presented that they do not see a hardship for the request and does not see the issue with backing out into the alley. The Board then asked the neighbor's representative what they had an issue with. They informed the Board that it appears she is asking to expand the garage right to his client's property line and that creates potential issues for them to be able to expand, because they might have to purchase additional materials if the buildings are too close to each other. They continued to discuss the opposition to moving the garage closer to the property line and the issues that could potentially cause. Chair McColpin suggested deferring the case to allow the Applicant and neighbors to get together to try to work something out that will work for both of them.

Board Motion and Vote:

- Paul Betbeze made a motion to **DEFER** case #: BOZA-24-66: 513 Sterling Ave., to the November meeting.

Susan Gilmore seconded the motion.

Voice Vote: All in favor.

The motion carries 8-0.

- BOZA-24-72: 1136 Lincoln Park Ln. (37403) - STVR Appeal

District: 8

Zone: R-3 Residential Zone

Variance Request: Appeal of a denial of an application (STVR-24-87) for an absentee short-term vacation rental from the Land Development Office.

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

Applicants Randal and Tonya Alvis of 1024 Kendal Farms Dr Hendersonville TN presented to the Board that they bought this property as a short-term vacation rental (STVR) and that they come down to visit their son every 4-6 weeks and use it in between guests at that time. The Board then discussed what they can and cannot do in regards to the STVR appeals and it was determined that their authority is to determine if the Land Development Office made a mistake in their decision on the application. The Board then asked if Code Inspector Zachary Wiley could speak on the background of the case and what brought them before the Board. He gave them a rundown of the history of the case and presented sections of the code that speak to why they were denied. The Applicant stated that they were unaware that the STVR certificates had to be renewed yearly and they stated that they did not know there was an expiration date on the certificate. The Board then discussed with the Applicant as well as Staff about the fees that are associated with the applications and if there are notices that go out to inform/remind the Applicant about renewal.

Community Response: No Community Comments.

Board Motion and Vote:

- Lee Brock made a motion to **DENY** case #: BOZA-24-72: 1136 Lincoln Park Ln.

Joe Manuel seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: Yes

Lee Brock: Yes

The motion carries 8-0.

- **BOZA-24-73: 7855 Townsend Rd. (37421): Relief from sec. 38-25:**

District: 4

Zone: R-2 Residential Zone

Variance Request: Relief from sec. 38-25 - Lots to front street; exceptions. Residential (a).

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

Applicant Thomas Copeland 2140 Lincoln Crest Dr Chattanooga TN presented to the Board that he bought the property with the intention to build a structure on it, but when they were ready to get the permit; they realized that they would need a variance for the access road. The Chair read the code section that relates to this request into the record for everyone's knowledge. Chair stated that it appeared that the Applicant had 10 feet of access and he informed the Applicant that the Board has heard this case for this property before. Chair spoke about how the City code requires a minimum of 15 feet for life safety things and he believes that the Board cannot rule on this case right now the way it stands. He would have to either have a permanent easement or purchase the land from the neighbors.

Community Response: Donnie Smith of 7817 Townsend Rd presented to the Board that there is a 10 foot private drive and that there are other lots close to where the lot in question is. He is worried that if the variance is approved that the Applicant would come before the Board again asking for another variance to build.

Board Motion and Vote:

- Scott McColpin made a motion to **WITHDRAW** case #: BOZA-24-73 - 7855 Townsend Rd., without prejudice.
Paul Betbeze seconded the motion.

Voice Vote: **All in favor.**

The motion carries 8-0.

- **BOZA-24-77: 6000 Fisk Ave. (37421): Special Permit**

District: 6

Zone: O-1 Office Zone

Variance Request: Special permit for a daycare center in the O-1 zone.

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

Applicant Liliana Ramirez of 3837 Central Ave presented to the Board that she is renting the property in question and they are in the process of getting the license from the Department of Human Services also working with other agencies to get approval to operate a child care center. The Board then discussed with the Applicant the plan for the traffic for pick up and drop off of the children. They also discussed the number of children as well as where the playground will be and the safety features of the child care.

Community Response: No Community Comments.

Board Motion and Vote:

- Alan Richelson made a motion to **APPROVE** case #: BOZA-24-77: 6000 Fisk Ave., subject to the checklist.
Rudolph Foster seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: Yes

Lee Brock: Yes

The motion carries 8-0.

- BOZA-24-78: 1017 Summer St. (37405): Setback Reduction Variance

District: 2

Zone: R-1 Residential Zone

Variance Request: Reduction in rear setback from 5 feet to 1 foot and a reduction in side setback from 5 feet to 1 foot.

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

Applicant Matthew Aplin of 1017 Summer St presented to the Board that he is a licensed engineer with the state of Tn and this request is for his personal residence. He stated that a developer came and built two large houses above his house and it caused flooding in his backyard that he had to work with the developer and other officials to fix. He said that the developer installed a curb to keep the water out of their backyard which allows it to drain into the alley and not in their backyard. He is requesting to build a carport which has no foundation and is simply four posts and a roof. He said that the neighbors only requested that it not block their line of sight and not drain water into their backyard. The Board asked for confirmation that he was not planning to rip out the entire curb, but just build the carport to protect the cars and be out of the rain. The Board then discussed the hardship of the Applicant and it was determined that the lot shape and developer-created drainage issue would be the hardship.

Community Response: No Community Comments.

Board Motion and Vote:

- Paul Betbeze made a motion to **APPROVE** case #: BOZA-24-78 - 1017 Summer St., for a side setback reduction from 5 feet to 1 foot and a rear setback from 5 feet to 1 foot per the site plan with the hardship being irregular lot shape and a drainage issue created by another party.

Lee Brock seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: Yes

Lee Brock: Yes

The motion carries 8-0.

- BOZA-24-79: 3421 Raines Ln. (37419) - Relief from sec. 38-25 (a)

District: 1

Zone: R-1 Residential Zone

Variance Request: Relief from sec. 38-25 (a) Lots to front street; exceptions.

Ray Adkins recused himself from this case.

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

Applicant Frank Collins of 338 Shanty Lake Dr Chattanooga presented to the Board that he bought the property some years ago and there was a dilapidated house on it that has since been removed and there is a 25 foot written access easement with the property. He tried to get a building permit to rebuild the house and he got mixed answers on if he could rebuild without a variance or not. He also stated that the address was changed when the road became a private road. The Board also discussed their authority to rule on this case and it was determined that they could rule on it.

Community Response: Helen Grey and son Gary Grey presented to the Board that she is concerned that the Applicant will build the house on her mother's property line. She gave the Board some history about the property and eventually

stated that she had no problem with the Applicant building a house, but wants to make sure that he doesn't build on her mother's property.

Board Motion and Vote:

- Joe Manuel made a motion to **APPROVE** case #: BOZA-24-79: 3421 Raines Ln., for relief from sec. 38-25 (a) Lots to front street; exceptions.

Paul Betbeze seconded the motion.

Roll Call Vote:

Ray Adkins: Recused

Alan Richelson: Yes

Susan Gilmore: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: Yes

Lee Brock: Yes

The motion carries 7-0 with 1 recusal.

- BOZA-24-80: 529 Forest Ave. (37405) - Setback Reduction Variance

District: 2

Zone: R-1 Residential Zone

Variance Request: Reduction in right side setback from 5 feet to 0 feet.

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

Applicant John Deardorff and Gina Fann (owner of property) present to the Board that the garage is a legal nonconforming building and that the owner would like an accessory dwelling unit for personal business use. He stated that the owner would like to put a second floor on top of the garage to keep the garage used for vehicles. He presented that they got the setback numbers from a survey that was completed. The Applicant stated that they can fit their plans for the second floor within the existing footprint of the garage. The Board discussed that the property came before the Board previously and the ruling was discussed and it was stated that the same variance was approved from 2018. The Board discussed and asked for clarification on the plans for the ADU, he stated that he was planning to tear down the existing garage to rebuild in the same footprint and make the structure able to accommodate a second floor. The Board discusses whether or not they need to rule on this case.

Community Response: Carrie Goodwin of 601 Forest Ave presented to the Board that she originally had issues with the proposed variance request, but no longer does.

Board Motion and Vote:

- Paul Betbeze made a motion to **WITHDRAW** case #: BOZA-24-80- 529 Forest Ave., without prejudice.

Ray Adkins seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Joe Manuel: Yes

Lee Brock: Yes

The motion carries 8-0.

- BOZA-24-81 - 1184 Baldwin St. (37403) - Special Permit

District: 8

Zone: U-IX-4 (Form-Based Code)

Variance Request: Special Exception permit for a Social Service use in the U-IX-4 zone.

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

Applicant Etienne Easley presented to the Board that she is requesting a special permit for social services and the Board asked the Council if this falls under ADA regulations or not and Council stated that it did not. Council asked if the operation was a nonprofit organization and had their 501 3c and the Applicant stated that they were and did have their documentation. The Board discussed the surrounding area around the property in question as well as where the property is located.

Joe Manuel left the meeting.

Voting Majority Update: 7 members present. Majority is 4.

Community Response: No Community Comments

Board Motion and Vote:

- Lee Brock made a motion to **APPROVE** case #: BOZA-24-81 - 1184 Baldwin St.

Rudolph Foster seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Lee Brock: Yes

The motion carries 7-0.

- BOZA-24-83 - 1853 Polk St. (37408) - Special Permit

District: 8

Zone: M-1 Manufacturing

Variance Request: Special Permit for a dog training facility in the M-1 zone.

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

Applicant Lauren Hayes presented to the Board that she is responsible for the business side of the operation and her husband does the training. She presented that the building is a standalone building across from the park. She presented that they want a space to hold small training classes as well as to train the animals. There would be no outside use and no overnight boarding and no grooming. She stated that they do not do any personal protection training of the animals.

Community Response: No Community Comments

Board Motion and Vote:

- Lee Brock made a motion to **APPROVE** case #: BOZA-24-83 - 1853 Polk St., with the following conditions:
 - No outdoor use.
 - No overnight boarding.

Paul Betbeze seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Alan Richelson: Yes

Susan Gilmore: Yes
Scott McColpin: Yes
Paul Betbeze: Yes
Rudolph Foster: Yes
Lee Brock: Yes

The motion carries 7-0.

- BOZA-24-84 - 2419 E 13th St. (37408) - Lot Size Variance, Special Permit

District: 8

Zone: R-2 Residential

Variance Request: Special Permit for a Duplex on a Lot of Record and a reduction in lot size from 7,500 square feet to 7,100 square feet.

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

Applicants Melissa Graveline and Kurt Martig presented to the Board that they have a property that is zoned R-2 and they would like to build a duplex. He stated that the current lot size does not meet the requirements of the zone. He stated that it is a Lot of Record in a historic neighborhood and they are asking for the variance because it does not meet the requirements. The Board asked some questions about the parking and went through the requirements that must be met by the Applicant for the Board to approve the special permit.

Community Response: No Community Comments

Board Motion and Vote:

- Lee Brock made a motion to **APPROVE** case #: BOZA-24-84 - 2419 E 13th St., per the site plan that is submitted as well as contingent on the Applicants purchasing the property.

Paul Betbeze seconded the motion.

Roll Call Vote:

Ray Adkins: Yes
Alan Richelson: Yes
Susan Gilmore: Yes
Scott McColpin: Yes
Paul Betbeze: Yes
Rudolph Foster: Yes
Lee Brock: Yes

The motion carries 7-0.

- BOZA-24-85 - 1707 S Lyerly St. (37404) - Setback Reduction Variance:

District: 8

Zone: R-2 Residential

Variance Request: Reduction in the right side setback from 5 feet to 4.5 feet and a left side setback reduction from 5 feet to 1.33 feet for new construction.

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

Applicants Gary Soldis representing Mr. Ortiz (the owner of the property) presented to the Board that the owners tore down a structure and rebuilt a two story structure in its place. The Board asked why there was to separate setback reduction requests and the Applicant stated that there were two structures on the property that needed a variance. The Board asked for clarification on the requests - the right side setback request is for the two story structure and the left side setback request is for the carport style structure. The Applicant stated that the owner was not aware of the code requirements when building the structures and he was hired to help them get the proper permitting for the buildings. The Board discussed what the hardship is with the Applicant and then the Board discussed the availability of the zoning code in Spanish.

Community Response: No Community Comments

Board Motion and Vote:

- Susan Gilmore made a motion to **APPROVE** case #: BOZA-24-85 - 1707 S Lyerly St. for a right side setback reduction from 5 feet to 2.5 feet and to **DENY** the left side setback reduction from 5 feet to 1.33 feet.

Paul Betbeze seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Scott McColpin: No

Paul Betbeze: Yes

Rudolph Foster: Yes

Lee Brock: Yes

The motion carries 6-1.

- **BOZA-24-86 - 1303 N Chamberlain Ave. (37406) - STVR Appeal**

District: 9

Zone: R-1 Residential

Variance Request: Appeal of a denial of an application (STVR-24-81) for an absentee short-term vacation rental from the Land Development Office.

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

Applicants Louis Bernson, attorney for the owner, and John Rapczak, owner of the property, presented to the Board that the owner purchased the property in 2023 with the intention to use it as an absentee short term vacation rental. At the time of purchase, there was an active short term vacation rental certificate on the property and also a moratorium that did not allow for new absentee certificates to be issued by the city. He presented that the ability to transfer the existing permit was not available yet and the owner was not able to obtain a new permit or transfer the existing one. He stated that they were taken before the Administrative Hearing Officer for operating a short term vacation rental without an active permit and the AHO asked Staff what options the owner/applicant had. Staff stated that they could go before the Board of Zoning Appeals. Zoning Code Inspector Zachary Wiley then took the Board through the timeline of what all happened that led to the reason for the case being heard by the Board.

Community Response: No Community Comments

Board Motion and Vote:

- Rudolph Foster made a motion to **APPROVE** case #: BOZA-24-86 - 1303 N Chamberlain Ave..

Alan Richelson seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Lee Brock: Yes

The motion carries 7-0.

- **BOZA-24-87 - 811 Clarendon St. (37405) - Setback Reduction Variance**

District: 2

Zone: R-1 Residential

Variance Request: Reduction in left side setback from 5 feet to 2.6 feet.

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

Applicant Aaron Caldwell presented to the Board that they want to extend the existing house 15 feet straight back. He said that the existing house is 2.67 feet from the lot line on the back existing corner and he stated that they do not want to go any closer than that.

Community Response: No Community Comments

Board Motion and Vote:

- Paul Betbeze made a motion to **APPROVE** case #: BOZA-24-87 - 811 Clarendon St., for a left side setback reduction from 5 feet to 2.6 feet per the submitted site plan.

Rudolph Foster seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Scott McColpin: Yes

Paul Betbeze: Yes

Rudolph Foster: Yes

Lee Brock: Yes

The motion carries 7-0.

Chair Scott McColpin adjourned the meeting at 1:17 p.m..



Scott McColpin, Chairman

4-Dec-2024

Date



Shelby Ogle, Admin

12/4/24

Date