



# BOARD OF ZONING APPEALS

## MEETING MINUTES

September 4th, 2024

The duly advertised meeting of the Board of Zoning Appeals was held on September 4th, 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 10:02 a.m..

**Members Present:** Ray Adkins, Paul Betbeze, Scott McColpin, Alan Richelson, Susan Gilmore, Joe Manuel, J.T. McDaniel

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

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

**Applicant(s) Present:**

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

**Approve Minutes:** Minutes were not ready to be approved.

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

**Agenda Update:** **BOZA-24-55 - 709 Merriam St.: Height Variance** - The Applicant requested their case be withdrawn. *Scott McColpin* motioned to **WITHDRAW** case #: BOZA-24-55 - 709 Merriam St. without prejudice. *Ray Adkins* seconded the motion. No discussion. **All in favor. The motion carries 7-0.**

## OLD BUSINESS

### - **BOZA-24-54: 5413 Alabama Ave. - Setback Reduction Variance**

**District:** 7

**Zone:** R-1 Residential Zone

**Variance Request:** Reduction in rear setback from 25' to 5' for new construction.

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

Applicant Keith Reilly of 5413 Alabama Ave presented to the Board that he plans to move into the house once it is built and also stated that there was some confusion on what the setbacks were. He stated that there is a historic retaining wall that is to remain and will be maintained as the historic entrance to the property. He presented that he was originally requesting a variance from 25 feet to 5 feet, but he will actually be closer to the 25 feet requirement and that he meets all the other setback requirements. The Board asked the Applicant some questions about the lot topography and why the house cannot be moved on the lot to meet the setback requirements. The Applicant stated that the front of the lot slopes downward toward the road. The Applicant also stated that he does not want to lose the yard space, because he has kids and wants a garden. He also stated that due to the extra excavation and digging out for the driveway; it would cost more and cause financial hardship. The Board then discussed the size of the house with the Applicant.

**Community Response:** No Community Comments

**Board Motion and Vote:**

- *Susan Gilmore* made a motion to **APPROVE** case #: BOZA-24-54: 5413 Alabama Ave., for a rear setback reduction from 25 feet to 15 feet as shown on the site plan presented to the Board; with the hardship being topography.

Paul Betbeze seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: Yes

Joe Manuel: Abstain

Scott McColpin: No

Alan Richelson: No

Susan Gilmore: Yes

J.T. McDaniel: Yes

**The motion carries 4-2-1.**

- **BOZA-24-59: 5231 Wilbanks Dr. - Parking and Landscape Variance**

**District:** 3

**Zone:** C-5 Neighborhood Commercial Zone

**Variance Request:** Requesting a parking variance for a reduction in required parking spaces and a landscape requirement variance.

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

Architect Ed Garbee of 5231 Wilbanks Dr, Owner Emily Campbell of Apple Pie LLC, and Civil Engineer Joseph Parks of 310 Dodds Ave presented to the Board that they have proposed a new site plan that shows the landscape requirements. They also stated that they are going to make changes to the way drop offs are completed so that there will be a reduction in traffic and improvement to the right-of-way. They stated that there are mature shade trees in the side yard where they are planning to have the playground for the children. The Applicants stated that they decided not to work with the neighbor to get a formal easement, but were going to instead just hug the driveway and not encroach on the neighbor's. The Board then questioned the Applicants on the landscape variance request and if they had gotten with the Landscape Architect to come up with a plan for that and they stated that they are wanting to keep some of the buffer that is required in the back corner. The Board asked the Applicant about how many parking spaces they were asking to have and they stated they would like 9 on site and 5 in the new public right-of-way - for a total of 14 offered spaces.

**Community Response:** April Loy Williams of 5408 Old Hixson Pike lives at the property located directly behind the property in the variance request and stated that the Applicants came by her home last week to discuss the request. She walked them to the back of her property to show them the steepness of the lot. She is concerned that they would clear out the landscape and there would be issues with runoff. She is also concerned about the traffic causing accidents that come into where the playground is proposed. She stated that she has no issues with the new proposed plan as long as they do not cause any issues with run off.

**Board Motion and Vote:**

- Joe Manuel made a motion to **APPROVE** case #: **BOZA-24-59: 5231 Wilbanks Dr.**, for a reduction in the required parking spaces from 25 to 14 and the landscape variance width to be reduced by 5 feet per the site plan only and subject to Landscape Architect Karna Levitt's approval.

Paul Betbeze seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: Yes

Joe Manuel: Yes

Scott McColpin: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

J.T. McDaniel: Yes

**The motion carries 7-0.**

- **BOZA-24-61: 2859 Northpoint Blvd. - Setback Reduction Variance**

**District:** 3

**Zone:** R-4 Special Zone

**Variance Request:** Requesting a reduction in front setback from 25' to 20' for new construction.

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

Applicant Donna Shepherd of 537 Market St #202 presented to the Board her apologies for not being at the last meeting and appreciates the Board giving her a deferral so she could still present her case. She stated that they are planning a development on a lot that has a retention basin and some drains on the property that are causing this case to come before the Board for a variance request. She stated that there are 3 units that they are requesting the setback reduction for - from 25 feet to 20 feet. There are multiple easements on the property that are causing them to have to push the units up into the setback.

**Board Motion and Vote:**

- Scott McColpin made a motion to **DEFER** case #: BOZA-24-61: 2859 Northpoint Blvd., for one month to the September 4th meeting.

Rudolph Foster seconded the motion.

Voice Vote: All in favor. **The motion carries 7-0.**

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**NEW BUSINESS**

- **BOZA-24-52: 7013 Shallowford Rd. - Parking Variance**

**District:** 6

**Zone:** C-2 Convenience Commercial Zone

**Variance Request:** Reduction in the parking requirement from 1 space per guest room to 0.9 space per guest room.

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

Representative for the Applicant Alex Grace of 4650 S. Lee Hwy. (general contractor) presented to the Board that they came before the Board in 2019 to ask for the same parking variance for a different hotel that has been open and operating for 2 years now. In their opinion, the zoning code does not meet parking for requirements for normal day operation. They stated that they believe that the actual number that should be required is closer to .8 spaces. He stated that their capacity for the hotels runs about 75% regularly and with rideshare options and such - there is not as much of a need to have the required number of parking spaces. He then showed the Board that there is no way to allow patrons to park at the neighboring properties due to highway traffic and a retaining wall. The Applicant stated that the hardship is due to the lot shape and easements that are located on the property. The Applicant was asked if they came before the Board previously for the same property and he stated that they did, but the variance had expired before they were able to begin construction. The Board then continued to ask the Applicant questions about the parking requirements, such as what they are required to supply now, which is 1 parking spot to each room. They also asked if there would be any events or other circumstances that would affect the parking, which the Applicant stated they do not do. The Board then asked Transportation Review Specialist Caleb Fisher if the new zoning code that was going before City Council changed the required ratio from one to one - Caleb said that the new code still required that. To which, the Board followed up with a question about why it wasn't changed with the new code, and Caleb said that he did not know. The Board asked the Applicant if staff parking was allotted and he said that it wasn't really, but it was considered when the plan was made.

**Community Response:** No Community Comments

**Board Motion and Vote:**

- Alan Richelson made a motion to **APPROVE** case #: BOZA-24-52: 7013 Shallowford Rd., for a reduction in parking requirements from 1 per room to 0.9 per room or a reduction of 13 spaces.

Ray Akins seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: No

Joe Manuel: Yes

Scott McColpin: Yes

Rudolph Foster: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Lee Brock: Yes

J.T. McDaniel: Yes

**The motion carries 8-1.**

- **BOZA-24-54: 5413 Alabama Ave. - Setback Reduction Variance**

**District:** 7

**Zone:** R-1 Residential Zone

**Variance Request:** Reduction in rear setback from 25' to 5' for new construction.

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

Applicant was asked to come forward. Applicant was not present at the meeting. The Board granted a courtesy deferral to the September 4th meeting.

**Board Motion and Vote:**

- Scott McColpin made a motion to **DEFER** case #: BOZA-24-54: 5413 Alabama Ave., for one month to the September 4th meeting.

Paul Betbeze seconded the motion.

Voice Vote: **All in favor. The motion carries 9-0.**

- **BOZA-24-55: 709 Merriam St. - Height Variance**

**District:** 1

**Zone:** R-1 Residential Zone

**Variance Request:** Increase in maximum building height from 35' to 40'.

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

Architect Aaron Cole presented with the Owner/Applicant Sumeet Makhijani of 709 Merriam St. to the Board that they are wanting to build a house at that location. They stated that it is currently an empty lot and the steepness of the slope of that lot has triggered the City's steep slope ordinance and they have gone through the process and received their land disturbing permit. He stated that due to the steepness of the slope they have to build a 15 foot basement to allow for an exit out the back of the house on grade. They also have a 5-6 feet retaining wall behind the house. They are asking to be able to raise the house about 5 feet. The Board asked if there were any other houses that were that tall in the neighborhood and the Applicant stated that they appear to be designing a house that is in kind to the neighboring houses, but are unsure of the exact height of the surrounding houses. The Board asked if any of the surrounding houses received a height variance from the Board and Staff confirmed that they could not find any cases. The Applicant stated that if they dug further into the ground to bring the house to the maximum allowable height, the retaining wall would end up being roughly 10 feet tall. The Board asked if they could make changes to the slope of the roof to bring it under the requirement. The Board then talked about the possibility of digging the foundation deeper or something of that nature and they stated that they have already gotten a land disturbing permit and if they were to try to change that plan, it would cost them a lot of money and time. The Board then asked if they could move the house forward to allow for them to dig deeper. The Applicant stated that they are as far forward as they can by given the setback requirements.

**Community Response:** No Community Comments

**Board Motion and Vote:**

- Ray Adkins made a motion to **APPROVE** case #: BOZA-24-55: 709 Merriam St., for a reduction in building height from 35 feet to 40 feet due to a hardship of topography.

Lee Brock seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: No

Joe Manuel: No

Scott McColpin: No

Rudolph Foster: No

Alan Richelson: Yes

Susan Gilmore: Recuse

Lee Brock: Yes

J.T. McDaniel: Yes

**The motion is tied (4-4-1) and does not pass - defer case to the September Meeting.**

- **BOZA-24-57: 4133 Quinn Adams. - Special Permit for Duplex on a Lot of Record**

**District:** 7

**Zone:** R-2 Residential Zone

**Variance Request:** Requesting a special permit for a duplex on a Lot of Record.

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

Applicant Julia Smith of 4133 Quinn Adams St. presented to the Board that she purchased the lot in April and wants to build a duplex on the property that is a Lot of Record. The Board informed the Applicant that there are certain items that they need before they can rule on this case. The Applicant is wanting to know what she can build right now on the lot. The Board informed the Applicant that a new zoning code will be coming later in the year and a special permit might not be required from the Board to build a duplex.

**Community Response:** No Community Comments

**Board Motion and Vote:**



- Susan Gilmore made a motion to **WITHDRAW** case #: BOZA-24-57: 4133 Quinn Adams St., without prejudice.

Rudolph Foster seconded the motion.

Voice Vote: All in favor. The motion carries 9-0.

### - BOZA-24-60: 1909 Gunbarrel Rd. - Parking Variance

**District:** 4

**Zone:** C-2 Convenience Commercial Zone

**Variance Request:** Requesting a parking variance for a reduction in required parking spaces and a landscape requirement variance.

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

Applicant Mike Price of 7380 Applegate Ln presented to the Board that the request is driven by a change to the approved plan which added a driveway and that took away some of the onsite parking. The owner of the neighboring property also owns the property that the variance is being requested at; they were able to meet the parking requirements by combining the number of parking spaces. They want to increase the allowable percentage of offsite parking instead of reducing the required number of onsite parking. The Board asked the Applicant if the two properties are connected to each other and he said yes. The Board then asked about the concrete wall between the properties and the Applicant stated that they are planning to tear it down to allow for access to both parking lots. The Board then discussed having an easement placed so that there would not be any issues with the parking later if one of the properties sells.

**Community Response:** No Community Comments

**Board Motion and Vote:**

- Scott McColpin made a motion to **APPROVE** case #: BOZA-24-60: 1909 Gunbarrel Rd., for an increase in offsite parking from 25% to 32% with the condition that a nonexclusive parking agreement and access agreement/easement be placed on record in the Register's office and supplied to Staff.

Alan Richelson seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: Yes

Joe Manuel: Yes

Scott McColpin: Yes

Rudolph Foster: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

Lee Brock: Yes

J.T. McDaniel: Yes

**The motion carries 9-0.**

### - BOZA-24-69: 1901 Henegar Cir. - Setback Reduction Variance

**District:** 4

**Zone:** R-4 Special Zone

**Variance Request:** Requesting a reduction in rear setback from 35' to 21' for new townhome construction.

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

Applicant Mike Price of 7380 Applegate Ln presented to the Board that this case has come before the Board under a different Applicant and address. The property was under some scrutiny due to a series of errors that occurred during the time that permits were issued. The owner at the time then sold the property and the new owner then realized the errors had occurred and began the process of bringing the property into compliance with the City and ensuring they can continue operating without concern. They are requesting a reduction in the setback along Joiner Rd from 25 feet to 21 feet. The request is for the overhangs that are located on the second floor and not the main building.

**Community Response:** No Community Comments

**Board Motion and Vote:**

- *Scott McColpin* made a motion to **APPROVE** case #: BOZA-24-69: 1901 Henegar Cir., for a right side setback reduction from 25 feet to 21 feet.

*Paul Betbeze* seconded the motion.

Roll Call Vote:

Ray Adkins: Yes

Paul Betbeze: Yes

Joe Manuel: Yes

Scott McColpin: Yes

Rudolph Foster: Yes

Alan Richelson: Yes

Susan Gilmore: Yes

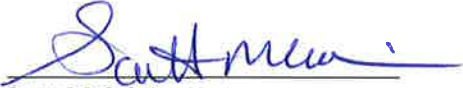
Lee Brock: Yes

J.T. McDaniel: Yes

**The motion carries 9-0**

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Scott McColpin motioned to temporarily adjourn with a reconvene date of August 16th.  
Meeting was adjourned at 12:05 p.m..

  
Scott McColpin, Chairman

6-Nov-2024  
Date

  
Shelby Ogle, Admin

12-NOV-24  
Date

