

**BOARD OF ADJUSTMENT  
MINUTES  
June 22, 2020 @ 5:00 p.m.**

The Board of Adjustment held a virtual meeting on Monday June 22, 2020 at 5:00 p.m.

**Members Present**

Secretary Justin Cothren  
Don Jacimore  
John Choate

**Members Absent**

Chairman Wendell Miller  
Vice Chairman Scott Sanders

**Visitors Present:** City Attorney Trey Smith, City Planner Sara Jondahl, City Engineer Glenn Newman, Engineering Assistant Chance Stines, Planner I Victoria Marchant, Flood Manager Ben Gray, Fire Marshal Richard Setian, David Garza of Barrett & Associates, Don Erwin, Randy Hendrix, Mary Cohoon, Lisa Huelle, Regina Watkins, Brad Everett, Vickie Steele, and Christie Graham.

**Welcome Visitors**

**The First Order of Business** is a request to review and approve the minutes of the Board of Adjustment May 26, 2020 meeting.

Member Cothren made the motion to approve the minutes as written. The motion was seconded by Member Choate and passed unanimously.

**The Second Order of Business** is a request to approve a variance from Article 3.1.2(H) allowing a 2,000 square foot accessory structure despite the maximum 1,600 square foot limit, located at 1119 Marina Road. Submitted by Christie Graham. (BOA.20.05.3665)

Planner I Marchant said the application is to allow the construction of an accessory building greater than the maximum allowed on a property 3.11 Acres in size. This is a single family home in an R1 zone surrounded by R1 zoned properties. In Article 9.3.2 the Board of Adjustment has been given specific guidelines in order to grant a variance. 1. Applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands. Staff has found the applicant has demonstrated that special conditions do exist by the size of their property. A typical R1 lot is less than two Acres and the applicant's lot is 3.11 Acres in size. The applicant has additionally shown that there will be little to no visual impact due to their home being setback from the road and their property being obstructed from neighboring homes by wooded areas. The accessory building will be constructed in such a way that it will match the overall look of the current home. 2. Non-conforming uses in the area shall not be considered grounds for granting a variance. No other non-conforming uses in the area were considered as

grounds for granting this variance. 3. The application demonstrates reasons that justify a variance and the variance is the minimum to make reasonable use of the land. The granting of the variance is the minimum variance allowing reasonable use of land. 4. Make a finding that granting the variance will be in harmony with the general purpose and intent of the zoning code. The granting of this variance is in harmony with the purpose and intent of the code. 5. The Board of Adjustment may prescribe appropriate conditions and safeguards. There are no additional safeguards required. 6. The Board of Adjustment may not grant a variance to allow a use not permissible in the zone code. The proposed use is in conformance with the Table of Permitted Uses.

Staff recommends approval of this application as a result of the findings below: 1. The applicant's lot is larger than normal and the large accessory building will have little to no visual impact. 2. The applicant has met all other variance guidelines.

Christie Graham said she was just asking for a little bit larger accessory structure than what is normal. She had no other comment.

Member Choate made the motion to approve the variance request. The motion was seconded by Member Cothren and passed unanimously.

**The Third Order of Business** is a request to approve a variance from Article 7.2 allowing repairs to a non-conforming structure, located at 513 West K Street. Submitted by Vicki Steele of the Russellville Housing Authority. (BOA.20.05.3666)

Planner I Marchant said the application is to allow minimal repairs to a non-conforming structure that does not meet the minimum requirements for the district. This is an existing home in the CHZ character zone, surrounded by CHZ character zoned properties in the El Paso University District. In Article 9.3.2 the Board of Adjustment has been given specific guidelines in order to grant a variance. 1. Applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands. Staff has found that the applicant has demonstrated that special conditions exist due to the fact that the literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by others. The applicant is proposing to make minimal repairs to the interior of the structure. The only repairs the applicant is proposing that would require a building permit is the replacement of a few floor joists. The structure is non-conforming because it does not meet all of the requirements for the El Paso University Zone. Improvements required in this district are laid out in Article 2.18.2 and include sidewalks, street trees, on street parking, landscaping, and improvements to the façade of the structure. The replacement of a few floor joists does not warrant coming into full compliance with the code. 2. Non-conforming uses in the area shall not be considered grounds for granting a variance. No other non-conforming uses in the area were considered as grounds for granting this variance. 3. The application demonstrates reasons that justify a variance and the variance is the minimum to make reasonable use of the land. The granting of the variance is the minimum variance allowing reasonable use of land. 4. Make a finding that granting the variance will be in harmony with the general purpose and intent of the zoning code. The granting of this variance is in harmony with the purpose and intent of the code. 5. The Board of Adjustment may prescribe appropriate conditions and safeguards. There are no additional safeguards required. 6. The Board of Adjustment may not grant a variance to allow a use not permissible in the zone code. The proposed use is in conformance with the Table of Permitted Uses.

Staff recommends approval of this application as a result of the findings below: 1. As a result of the findings that the literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by others. 2. The applicant has met all other variance guidelines.

Vicki Steele of the Russellville Housing Authority said they are just replacing floor joists and that they are requesting the variance.

Member Choate made the motion to approve the variance request. The motion was seconded by Member Cothren and passed unanimously.

**The Fourth Order of Business** is a request to approve a variance from Article 7.2 or 5.2.13 (A) allowing a 727.63 square foot and 100' tall sign despite the maximum 300 square foot limit and 50' height limit, located at 42 Bradley Cove Road. Submitted by Michael B Everett of Texas Republic Signs LLC on behalf of Flying J #605. (BOA.20.05.3664)

Planner I Marchant said the application is to allow replacement of an existing sign facing I-40 in a C2 zone which exceeds the allowable square footage by 427.63 square feet and allowable height by 50'. This is an existing Travel Center in a C2 zone, surrounded by C2 zoned properties. In Article 9.3.2 the Board of Adjustment has been given specific guidelines in order to grant a variance. 1. Applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands. Staff has found the applicant has demonstrated that special conditions exist due to the fact that the sign was erected before the current zoning code went into effect. Now that the applicant is replacing the sign under the current zoning code, they are coming closer into compliance. The applicant is proposing to replace a sign which does not comply with the size allotment for signs. The current sign is 112' tall and 907.63 square feet. The replacement sign will reduce the height to 100' and the overall square footage to 727.63 square feet. 2. Non-conforming uses in the area shall not be considered grounds for granting a variance. No other non-conforming uses in the area were considered as grounds for granting this variance. 3. The application demonstrates reasons that justify a variance and the variance is the minimum to make reasonable use of the land. The granting of the variance is the minimum variance allowing reasonable use of land. 4. Make a finding that granting the variance will be in harmony with the general purpose and intent of the zoning code. The granting of this variance is in harmony with the purpose and intent of the code. 5. The Board of Adjustment may prescribe appropriate conditions and safeguards. There are no additional safeguards required. 6. The Board of Adjustment may not grant a variance to allow a use not permissible in the zone code. The proposed use requires a Special Use Permit to be in conformance with the Table of Permitted Uses. However, the applicant has already submitted a Special Use Permit to come into compliance with the Table of Permitted Uses.

Staff recommends approval of this application as a result of the findings below: 1. The sign was erected before the current zoning code went into effect and the applicant is making an effort to come closer into compliance. 2. The applicant has met all other variance guidelines.

Michael B Everett of Texas Republic Signs said he did not have any comment and that he would answer any questions.

Member Choate made the motion to approve the variance request. The motion was seconded by Member Cothren and passed unanimously.

**The Fifth Order of Business** is a request to approve a variance from Article XII (12) allowing a 4.3 foot variance allowing a 20.7-foot front yard setback despite the 25-foot requirement, located at 3109 Southgate Drive. Submitted by David Garza of Barrett & Associates on behalf of Brenda Stone. (BOA.20.06.3667)

Planner I Marchant said the application is to allow a setback variance of 4.3 feet for a house that does not meet the area requirements for an R1 zone. This is an existing non-conforming home within an R1 zone, surrounded by all R1 zoned properties. In Article 9.3.2 the Board of Adjustment has been given specific guidelines in order to grant a variance. 1. Applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands. Staff has found the applicant has demonstrated special conditions exist because this house was constructed before current zoning code went into effect. The applicant is asking for a 4.3 foot variance in the front yard setback requirement. The house was built over the 25 foot front yard setback requirement in an R1 Zone. 2. Non-conforming uses in the area shall not be considered grounds for granting a variance. No other non-conforming uses in the area were considered as grounds for granting this variance. 3. The application demonstrates reasons that justify a variance and the variance is the minimum to make reasonable use of the land. The granting of the variance is the minimum variance allowing reasonable use of land. 4. Make a finding that granting the variance will be in harmony with the general purpose and intent of the zoning code. The granting of this variance is in harmony with the purpose and intent of the code. 5. The board of Adjustment may prescribe appropriate conditions and safeguards. There are no additional safeguards required. 6. The Board of Adjustment may not grant a variance to allow a use not permissible in the zone code. The proposed use is in conformance with the Table of Permitted Uses.

Staff recommends approval of this application as a result of the findings below: 1. This house was built before the current zoning code was in effect and before the setback requirements were as they are now. 2. The applicant has met all other variance guidelines.

David Garza of Barrett & Associates said the non-conforming setback was first discovered during a survey in 2005. He is not sure why it was not remedied at that time. It is possible the title company did not catch it. Mr. Garza said if you look at an aerial photograph you can see that the asphalt in the cul-de-sac has shifted over easterly. He thinks that is likely where the builder got off, the builder was probably trying to figure where the center line of the asphalt was. Then did a 50 foot radius and the actual center line was closer to the lot than what the builder thought. Mr. Garza said regardless of that, it is a small portion of the house—the northern corner—which does not meet the front yard setback. He said Ms. Stone wanted to get this taken care of now, so if she does decide to sell then it will not be something that will hold up the sale or scare off the buyer. He said Ms. Stone was concerned that the title company or lending company would take exception to it. Ms. Stone asked the builder—Bill Hegeman—to take care of the situation for her.

Member Cothren made the motion to approve the variance request. The motion was seconded by Member Choate and passed unanimously.

Meeting Adjourned

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Chairman Wendell Miller