

**BOARD OF ADJUSTMENT  
MINUTES  
September 28th, 2020 @ 5:00 p.m.**

The Board of Adjustment held a virtual meeting on Monday September 28, 2020 at 5:00 p.m.

**Members Present**

Chairman Wendell Miller  
Vice Chairman Scott Sanders  
Secretary Justin Cothren  
Don Jacimore  
John Choate  
Scott Sanders

**Members Absent**

N/A

**Visitors Present:** Mayor Richard Harris, City Attorney Trey Smith, City Planner Sara Jondahl, Public Works Director Kenneth Duvall, City Engineer Glenn Newman, Planner I Victoria Marchant, Permit Clerk Kelsey Dinkel, Flood Manager Ben Gray, Fire Marshal Richard Setian, Jim Lynch of City Corporation, Zayne Bryson of City Corporation, Nathan Barber, Luke Duffield, Cody Black, Betsy McGuire, Lisa Huelle, Sarah Hann, Jason Hann, Suzanne Alford Hodges, Mary Cahoon, David Garza of Barrett & Associates, Ivory Pearson, Andy Rotenstreich on behalf of Verizon Wireless, Sarah Keathly, Bennie Gil Tomlinson on behalf of Verizon Wireless, Mark Anderson, Jo Anderson, Janna Martin, Joey McGee, Pam Teague, Mark Alderfer of Heritage Engineering, Don Erwin, TJ Posey, Hans Stiriz, and Morgan Barrett of Barrett & Associates.

**Welcome Visitors**

**The First Order of Business** is a request to review and approve the minutes of the Board of Adjustment August 24, 2020 meeting.

Member Jacimore 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 variance from Article 7.2 allowing an addition to a non-conforming structure, located at 421 East J Street. Submitted by Joey McGee.

Planner I Marchant said this is an application to allow renovations to a non-conforming structure that does not meet the area requirements for the district located at 421 E J Street. Located in the Parker Neighborhood, this is a single-family residence. It is a R2 zoned property surrounded by other residential zoned properties. In Article 9.3.2 the Board of Adjustment has been given specific guidelines in order to grant a variance. First, the 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 because this home was built before the current zoning code went into effect and therefore before the

setback requirements were as they are now. Second, 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. Third, 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. Fourth, 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. Fifth, the Board of Adjustment may prescribe appropriate conditions and safeguards. Staff has requested the applicant must obtain all necessary permits prior to construction beginning as a condition. Sixth, 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 that the Board of Adjustment approve this variance request with the following conditions: 1. All necessary permits are obtained prior to construction beginning. Based on the following findings: 1. The home was built before current Zoning Code went into effect; and 2. The applicant has met all of the other variance requirements.

Joey McGee said they were just trying to add a bathroom. He had no further comment.

Member Choate made the motion to approve the variance request as presented by staff. The motion was seconded by Member Jacimore and passed unanimously.

**The Third Order of Business** is a Variance from Article 7.2 allowing an addition to a non-conforming structure, located at 421 South Denver. Submitted by Sarah Keathley.

Planner I Marchant said this application is to allow an addition to a non-conforming structure that does not meet the area requirements for the district located at 421 S Denver. Located in the Old Town Neighborhood, this is a single-family residence. It is a R3 zoned property surrounded by other residential zoned properties. In Article 9.3.2 the Board of Adjustment has been given specific guidelines in order to grant a variance. First, Staff has found the applicant has demonstrated that special conditions exist because the home was built in the 1930's before the current zoning code went into effect. Second, no other non-conforming uses in the area were considered as grounds for granting this variance. Third, the granting of the variance is the minimum variance allowing reasonable use of land. Fourth, the granting of this variance is in harmony with the purpose and intent of the code. Fifth, staff has recommended as conditions that the applicant must obtain all necessary permits prior to construction of the carport. Sixth, the proposed use is in conformance with the Table of Permitted Uses.

Staff recommends that the Board of Adjustment approve this variance request with the following conditions: 1. All necessary permits are obtained for the construction of the carport. Based on the following findings: 1. The home was built before current Zoning Code went into effect; and 2. The applicant has met all of the other variance requirements.

Sarah Keathley was present and had no comment.

Member Jacimore made the motion to approve the variance request as presented by staff. The motion was seconded by Member Choate and passed unanimously.

**The Fourth Order of Business** is a Variance from Article 3.1.2 (H) allowing approximately 1,000 square feet in total accessory buildings despite the 783.5 square foot limit, located at 421 South Denver. Submitted by Sarah Keathley.

Planner I Marchant said this application is to allow a variance from the square footage allotment for accessory buildings located at 421 S Denver. Located in the Old Town Neighborhood, this is a single-family residence surrounded by other residential zoned properties. The applicant is proposing to build a carport—which was the addition to a non-conforming structure that was just heard—which would add to the total accessory building square footage on their lot. The applicant is allotted 50% of the primary heated and cooled structure in accessory buildings which comes out to approximately 783.5 square feet. After the proposed carport, the applicant will have approximately 1,000 total square feet of accessory buildings. Meaning they would be approximately 217 square feet above their allotted total. In Article 9.3.2 the Board of Adjustment has been given specific guidelines in order to grant a variance. First, staff has found the applicant has demonstrated that special conditions exist because the applicant’s lot is larger than typical lots in the Old Town Neighborhood. Second, no other non-conforming uses in the area were considered as grounds for granting this variance. Third, the granting of the variance is the minimum variance allowing reasonable use of land. Fourth, the granting of this variance is in harmony with the purpose and intent of the code. Fifth, there are no additional safeguards required. Sixth, the proposed use is in conformance with the Table of Permitted Uses.

Staff recommends that the Board of Adjustment approve this variance request based on the following findings: 1. The lot is larger than typical lots in this area; and 2. The applicant has met all of the other variance requirements.

Sarah Keathley was present and had no comment.

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

**The Fifth Order of Business** is a Variance from Article 4.3.3 waiving the requirements for screening vehicle storage areas, located at 2911 South Arkansas Avenue. Submitted by Heritage Engineering on behalf of Greenway Equipment.

Planner I Marchant said this application is to allow a variance from the requirements for screening vehicle storage areas located 2911 S. Arkansas. Located in the Arkansas River Industrial Area, this property was previously the location of Cogswell Select. It is a C2 zoned property surrounded by other commercially zoned properties including a variety of uses such as Atwood’s, Russellville Lawn and Landscaping, Backroads Tattoo and ABC Block & Brick. This application is to waive the requirements for screening of vehicle storage areas. The property that Greenway Equipment is currently developing has a gravel area to the side and rear of the building that is enclosed in a fence. Per Article 4.3.1 of the Russellville Zoning Code non-hard surface Vehicle Storage areas must be screened with a sight obscuring fence. In Article 9.3.2 the Board of Adjustment has been given

specific guidelines in order to grant a variance. First, staff has found the applicant has demonstrated that special conditions exist because if the applicant were required to pave the equipment storage and display area, existing drainage issues could significantly worsen. Second, no other non-conforming uses in the area were considered as grounds for granting this variance. Third, the granting of the variance is the minimum variance allowing reasonable use of land. Fourth, the granting of this variance is in harmony with the purpose and intent of the code. Fifth, staff has requested as conditions that the applicant must ensure the gravel stays contained within the designated fenced area. The green space behind the fence must stay maintained and landscaped. The gravel area must not be used for parking. Sixth, the proposed use is in conformance with the Table of Permitted Uses.

Staff recommends that the Board of Adjustment approve this variance request with the following conditions: 1. The applicant must ensure the gravel stays contained within the designated fenced area. 2. The green space behind the fence must stay maintained and landscaped. 3. The gravel area is not used for parking. Based on the following findings: 1. The paving of the gravel area could significantly worsen existing drainage issues. 2. The applicant has met all of the other variance requirements.

Mark Alderfer of Heritage Engineering representing the owner of Greenway Equipment was present. He stated he is traveling and had not had a chance to view the staff report prior to the meeting. He did ask about the requirement of no parking behind the existing fence. Mr. Alderfer explained the owner is going to use that area as display for his John Deere equipment, so it would not be used as a parking lot for vehicles. He just wanted to make that clarification.

Planner I Marchant apologized and clarified staff meant the area was never to be used as customer or employee parking. Staff did understand that the area would be used for equipment display.

Mr. Alderfer said that was very good.

Member Jacimore made the motion to approve the variance request as presented with the conditions stated. The motion was seconded by Member Choate and passed unanimously.

**The Sixth Order of Business is a** variance from Article 3.21 waiving the sidewalk requirements along West Main Street, located at 4109 West Main Street. Submitted by Barrett & Associates on behalf of Jo Anderson.

Planner I Marchant said this application is to allow a variance from the sidewalk requirements located at 4109 W Main Street. Located in the Skyline District, this was previously a single-family home but now contains a single-family residence as well as a business. It is a C2 zoned property surrounded by other commercially and residentially zoned properties including a variety of uses such as a Storage Facility, Off-Road Tire, Pet Groomer, and residential homes. This property was recently rezoned from R-1 to C-2. The applicant is now proposing to add a building onto the property and per the Russellville Zoning Code Article 3.21.1(C) addition of a sidewalk is required. In Article 9.3.2 the Board of Adjustment has been given specific guidelines in order to grant a variance. First, staff has found the applicant has demonstrated that special conditions exist because the existing sidewalk along West Main is currently approximately 160 feet away and does not abut the property. If

constructed the sidewalk would not tie into an existing sidewalk. However, the Comprehensive Plan and Russellville Connected Trail System do include a proposed trail to run along West Main Street. Second, no other non-conforming uses in the area were considered as grounds for granting this variance. Third, the granting of the variance is the minimum variance allowing reasonable use of land. Fourth, the granting of this variance is in harmony with the purpose and intent of the code. Fifth, staff is recommending as a condition that the applicant will need to provide the in lieu fee for the sidewalk to be prescribed by the City Engineer. Sixth, the proposed use is in conformance with the Table of Permitted Uses.

Staff recommends that the Board of Adjustment approve this variance request with the following conditions: 1. The applicant pay the in lieu fee for the sidewalk, the fee will be prescribed by the City Engineer. Based on the following findings: 1. There is currently no existing sidewalk on this property. 2. If constructed the sidewalk would not tie into an existing sidewalk. 3. The Comprehensive Plan and Russellville Connected has a proposed multiuse trail that will go through this area. 4. The applicant has met all other variance requirements.

David Garza of Barrett & Associates said that at the time the application was made they were relying on information provided by the Pope County Assessor. The property value at that time according to the AR County Data report was a total value of \$90,750 and the cost of the new building was going to be \$45,000 which would have been right at 49.65% or 50%. The code that requires the sidewalk says in Article 3.21.1 (C) "New commercial structures or improvements that increase the value of the property by more than 50% shall provide sidewalks along all public street frontages." He said they were using that information because they were right at the threshold. Mr. Garza said today he found out from the owners that they just had a recent appraisal done in August by Tyler Vantine and the actual total property value is \$137,000. This makes the improvement only 33.3%. Mr. Garza stated that staff did not have this information but with that said according to the code the sidewalks are not even required. He said he could provide staff with the appraisal. Mr. Garza asked if staff agreed and asked what they wanted to do.

City Planner Jondahl said staff did not have that information when working on the staff report but if they could provide it that appraisal to staff they could work on waiving those requirements. She said Mr. Garza is correct that the Zoning Code does provide relief if the improvements are less than 50%. City Planner Jondahl reiterated that staff did not have that information and made their recommendation based on the information they had.

Mr. Garza confirmed staff did not have that information and said he just found out about it himself. He said he could scan and send over the updated appraisal as soon as possible. He said with that information said the applicants are agreeable to withdraw their application.

City Planner Jondahl said this would be allowable by staff.

This item was withdrawal from the Agenda.

**The Seventh Order of Business is a variance from Article 12 allowing a front yard setback of 19 feet despite the 25-foot requirement, located at 2011 E Parkway Drive. Submitted by Max Lawton.**

Chairman Miller stated that this item was requested to be tabled by the applicant but that they would still need a motion and second to approve table the item.

Member Choate made the motion to table the item. The motion was seconded by Member Jacimore and passed unanimously.

Meeting adjourned.

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Chairman Wendell Miller