



**Board of Zoning Appeals
Minutes
September 20, 2021**

You may view and listen to the meeting in its entirety by going to the Board of Zoning Appeals page on the City’s website:

<https://amsva.wistia.com/medias/8sh9c5i3c3>

The Agenda, Staff Report, Applications and Supporting Documents are also available on the Board of Zoning Appeals page.

MEMBERS PRESENT (Absent)

Frank Reyes, Chairman (absent)
Dr. Roy Gratz, Vice Chairman
Stephen Eubank
Jay Jarrell III
Matthew Muggeridge
Helen Ross

STAFF

James Newman, Zoning Administrator
Cathy Eckles, Admin Specialist

1. CALL TO ORDER

This meeting was held both in person in Council Chambers and electronically by “Go to Meeting” application, pursuant to City Council Ord. 20-05, An Ordinance to Address Continuity of City Government during the Pendency of a Pandemic Disaster.

Members of the public were invited to attend this meeting with masks and social distancing required or access by public access television Cox Channel 84, Verizon Channel 42, online at www.regionalwebtv.com/fredcc, or Facebook live at www.facebook.com/FXBGgov.

Acting Chairman Gratz called the meeting to order at 4:00 p.m., explained electronic meeting procedures and did a roll call.

2. DETERMINATION OF A QUORUM

There were 5 members present.

3. PUBLIC NOTICE REQUIREMENTS

Dr. Gratz determined that a quorum was present, and asked if public notice requirements had been met. Mr. Newman stated that public notice requirements had been met.

4. DISCLOSURE OF EX PARTE COMMUNICATIONS

Dr. Gratz asked if any Board member had engaged in *ex parte* communications on any item before the Board. No one indicated that they had participated in any *ex parte* communication.

5. DISCLOSURE OF CONFLICTS OF INTEREST

Dr. Gratz asked if any Board member had any conflicts of interest on any item before the Board. There were no disclosures.

6. APPROVAL OF AGENDA

Mr. Eubank motioned to approve the agenda as presented. Mr. Jarrell seconded. The motion carried 5-0.

7. PUBLIC HEARING

- A) **2607 Charles Street** – Christopher Hallberg requests a variance and a fence special exception for 2607 Charles Street/GPIN 7779-79-8783, which is located 60 feet north of the intersection of Charles and Bridgewater Streets. The property is zoned Creative-Maker. The Comprehensive Plan designates this parcel as T-5M Core-Maker Zone, which is characterized as up to 12-24 units per acre and a commercial Floor-Area-Ratio of 1.0-3.0

The applicant requests a fence special exception to erect a chain link fence. Unified Development Ordinance Section 72-56.4 prohibits chain link fences in the Creative-Maker zoning district. The applicant desires to put a chain link fence for security.

The first variance request is from Unified Development Ordinance Appendix I, Section 6-2, Building Type 2, which requires a rear setback of 20 feet for multifamily, non-residential, and mixed-use buildings and a rear setback of 24 feet for residential structures. The applicant requests a rear setback of 5 feet, so as to enlarge the main structure.

The applicant also requests a variance from Unified Development Ordinance 72-82.4.B.2, which regulates side setbacks. The side setback for the property is 5 feet, and the applicant wishes to have side setbacks of 0 feet, so as to enlarge the main structure. **SEF2021-01, VAR 2021-01**

Mr. Newman reviewed the staff report along with a PowerPoint presentation (Att. 1) and noted that the fence special exception application was withdrawn. Applicant Christopher Hallberg, 1005 Raymond Court, was present.

Mr. Hallberg discussed his reasons for the request for variance: storage for a collection of antique cars, moving office to this location, requests are for structures against an 18 foot tall brick building with no windows on the side facing the subject property, neighbors have approved the plans, and everything on property is already on a zero lot line.

Discussion ensued regarding the exact placement of the main structure, proposed sheds, and carports. Mr. Eubank asked if the ordinances determining the setbacks were in place when applicant bought the property. Mr. Hallberg said yes. Mr. Eubank asked why applicant can't set up new offices inside the existing structure. Mr. Hallberg said he needs more space than is available. Mr. Hallberg said the only way to expand the main structure for the room he needs is to expand on the southeast side.

Discussion ensued regarding replacing existing legally non-conforming structures. The house currently on the property is the only structure that is conforming. Mr. Muggeridge stated it is unclear why applicant feels the Board should approve the variances for ordinances that were in place when applicant bought the property. Mr. Hallberg noted that he was well aware of the setbacks and code in place and knew exactly what he was doing when he bought the property, but he felt this was a request that wasn't going to affect anything and he got the property at a very affordable rate.

Discussion ensued about the construction and movability of the proposed carports, the placement of the entrances, where the gates will be situated, and the possibility of a condition that makes the carport required

to be temporary. Applicant noted that tearing down the current garage and putting up a structure that meets the setbacks isn't economical.

Mr. Eubanks noted that he is inclined to move to deny the variance application since applicant bought the property with plans that require variances. Ms. Ross agrees. Mr. Jarrell said he agrees but feels that creative conditions just need to be set due to the history of the property, the neighbors all building right up to the property lines, and that not much really changes.

Mr. Eubanks motioned to deny the variance application. Ms. Ross seconded. Mr. Muggeridge moved to amend the denial to approve the variance for the rear setbacks to allow the carport to be established but which would prohibit an addition to the main structure. Mr. Eubanks accepted the amendment. Mr. Jarrell motioned to amend the option to allow the variance on the rear setback line with a condition that the carport is temporary, but to deny the variance on the side setbacks. Mr. Eubanks accepted the amendment. Chairman Gratz clarified that the motion is to deny the side setbacks but approve the rear setbacks, with a condition that the carport is temporary. Mr. Newman asked if the Board was denying applicant from putting in a concrete pad at the proposed carport location. Mr. Jarrell said yes. Motion carried 4-1 (Ross, no).

- B) **812 Weedon Street** – John Mersiovsky requests a variance for 812 Weedon Street/GPIN 7779-93-6198, which is located 165 feet south-east of the intersection of Weedon and Hanover Streets. The property is zoned Residential-8. The request is for a variance from Unified Development Ordinance, Section 72-31.4.B, which requires a rear setback of 24 feet. The applicant desires a rear setback of 5 feet to put an addition to the rear of the house. The Comprehensive Plan designates this parcel as T-3 Sub-Urban, which is characterized as 4-8 units per acre and a commercial Floor-Area-Ratio of up to .5. **VAR 2021-02**

Mr. Newman reviewed the staff report along with a PowerPoint presentation (Att. 2) and noted that should the Board decide to approve the variance, the decision should be deferred until the issue of the status of an additional parcel in rear of the property has been settled. Applicant's agent, John Mersiovsky, 700 Lee Avenue, was present

Discussion ensued regarding the potential parcel and a condition for the lots to be consolidated, the encroachment line, an easement running across 816 Weedon Street, the conveyance of both parcels to the property owners, and the rear setback changes made in January 2020 before property was acquired in July 2020.

Mr. Mersiovsky reviewed his work on the house, discussed the request being for a mother-in-law suite (MIL suite), stated his rebuttals to staff's concerns and reasons for denial, and said the most affected property of this variance is 810 Weedon Street and that property's owners are in agreement with the request. The proposed addition can't be seen from the street. Mr. Mersiovsky distributed a copy of a letter from WW Webb and Associates, PLLC, regarding 812 Weedon Street (Att. 3).

The Board discussed with applicant the potential parcel, the possible consolidation of the two parcels, the current setbacks, the existing structures on the property, and potential room inside house or the garage for a MIL suite.

Mr. Newman read one public comment into the record from Cheryl Myers, 810 Weedon St. (Att. 4), who supported the request.

Mr. Jarrell noted that this property is the shallowest on the street, not a normal lot depth. Mr. Muggeridge said he doesn't see a reason for the variance, and there did not seem to be a hardship. Ms. Ross said she walked the alley and open space, but the amendments to the UDO were passed to keep open space and agrees with City's recommendation for denial. Dr. Gratz agreed.

Mr. Eubanks motioned to deny the variance application. Ms. Ross seconded. Motion carried 5-0.

8. GENERAL PUBLIC COMMENTS

None.

9. ELECTIONS

- Chair (currently vacant)

Mr. Jarrell nominated Mr. Muggeridge for Chairman. Mr. Eubank seconded. Motion carried 5-0.

- Vice-Chair (currently Roy Gratz)

Mr. Jarrell nominated Mr. Eubanks for Vice Chair. Ms. Ross seconded. Motion carried 5-0.

10. STAFF / BOARD COMMENTS

Mr. Muggeridge asked if the Board is allowed to set conditions to a BZA request to affect the future of a property. Mr. Newman and Mr. Jarrell said yes, conditions can be issued that run in perpetuity with the land

Mr. Muggeridge asked about the philosophy of the Creative Maker District and how it affects variance requests. Mr. Jarrell stated he didn't believe the City would bring the matter before the Board if it wasn't an allowed use through a variance.

Dr. Gratz requested that he be allowed to attend the state required training.

11. ADJOURNMENT

Chairman Gratz adjourned the meeting at 6:19 p.m.

Roy Gratz, Chairman

APPROVED: _____, 2022