

**BOARD OF ZONING APPEALS AGENDA  
MINUTES OF MEETING  
December 14, 2015**

**MEMBERS PRESENT:** Carl Zani, Eric Moulton, Dick Mickley, Barbara Taylor, Alex Kessler, Scott Zwiezinski, Jason Moore.

**OTHERS PRESENT:** City Zoning Inspector Derek Hutchinson, City Planner Chad Flowers, Code Enforcement Officer Ron Todd, City Law Director Tim Aslaner, and Clerk of Council Kristina Jones.

**CITIZENS PRESENT:** John Metcalf, Wendal Miller, Gary Heyder, Theresa Heyder, Dave Burke, Mike Williamson, Jason Stanford, Donald Boerger, Tim Schacht, Jason Goodwin, Christa Miller, Kristy Dearing, Bob Parrott, Steve Bell, Taylor Evans with Journal Tribune, Abigail & Robert Anderton, Carol & Lane Stillings, Karen Ze

**MEETING CALLED TO ORDER:** The meeting was called to order at 7:00 p.m.

**APPROVAL OF MINUTES:** The minutes from November 9, 2015 were approved as submitted.

**AGENDA ITEMS:**

**To hear a variance request to permit a 22' rear yard setback for a deck and steps vs. 30' minimum rear yard setback required for property located at 441 Poppy Lane in the R-2 (Medium Density Single Family Residential) zoning district. Filed by Gary Heyder.**

**Comments of Zoning Inspector and/or City Planner:** Mr. Hutchinson said this is what you see with a lot of the Pulte/Dominion homes. It is a ranch that is bigger than the footprint. Staff is in support of the variance that is being proposed.

**Comments of Requester:** Gary Heyder spoke regarding the variance. He explained he just wants to put a deck on the back of the residences like most neighbors have, however, he has a one store home, and the footprint is bigger than a two story, which puts them in the setback. Mr. Mickley asked if he already had a deck on the back of the house. Mr. Heyder explained he has a 3foot square with the steps to the backyard currently. Mr. Mickley also asked him if he had any intention of enclosing the deck, because he would have to come back to the BZA for that. Mr. Heyder stated he did not.

**Comments of Citizens:**

**Discussion by BZA Members:** Mr. Mickley moved to approve the variance, seconded by Mr. Kessler. Question put, stood:

Mr. Kessler YES;	Mr. Moore YES;	Mr. Mickley YES;	Mr. Zani YES;
Mr. Moulton YES;	Ms. Taylor YES;	Mr. Zwiezinski YES	

The variance was approved 7-0.

**To hear a variance request to permit a 4’6” landscape buffer vs. a minimum 10’ landscape buffer required between parking lots and right of way along S. Maple Street on property located at 411 W. 5th Street in the BR (Business-Residential) zoning district. Filed by Terrain Evolution.**

**Comments of Zoning Inspector and/or City Planner:** Mr. Hutchinson said Staff has reviewed this and is in support of the variance.

**Comments of Requester:** Mike Williamson spoke on behalf of Terrain Evolution. He explained they are wanting to get a variance to add more parking for Dave’s Pharmacy and move the entrance to the drive-thru further way from the intersection. He showed a map to the Board explaining the expansion of the parking lot and drive thru lane. Mr. Williamson stated this proposed expansion is pending a current certificate of appropriateness application to demolish an existing structure at 117 South Maple Street.

**Comments of Citizens:**

**Discussion by BZA Members:** Mr. Zwiezinski moved to approve the variance, seconded by Ms. Taylor. Question put, stood:

Mr. Mickley YES;                      Mr. Zani YES;                      Mr. Moulton YES;                      Ms. Taylor YES;  
Mr. Zwiezinski YES;                      Mr. Moore YES;                      Mr. Kessler YES

The variance was approved 7-0.

**To hear a variance request to permit a 6’ front setback (from the alley to the south off of Poplar Street) vs. 25’ front setback and to permit 52% lot coverage vs. 40% maximum lot coverage on property located at 703 E 5th Street in the BR (Business-Residential) zoning district. Filed by Concept Building, Inc.**

**Comments of Zoning Inspector and/or City Planner:** Mr. Hutchinson said Staff has reviewed this and is in support of the variance.

**Comments of Requester:** Steve Bell spoke on behalf of Concept Building, Inc. Underwood Funeral home currently handles receiving in the back parking lot which can be uncomfortable. They would like to put a garage type structure beside the funeral home for receiving flowers and etc, instead of bringing it across the parking lot in.

**Comments of Citizens:**

**Discussion by BZA Members:** Mr. Mickley moved to approve the variance, seconded by Ms. Taylor. Question put, stood:

Mr. Zani YES;                      Mr. Moore YES;                      Mr. Moulton YES;                      Ms. Taylor YES;  
Mr. Zwiezinski YES; Mr. Kessler YES;                      Mr. Mickley YES

The variance was approved 7-0.

**To hear a variance request to permit 0 off-street parking spaces vs. a minimum of 32 off-street parking spaces required per square footage for property located at 326 E. 5th in the BR (Business-Residential) zoning district. Filed by Goodwin Services.**

**Comments of Zoning Inspector and/or City Planner:** Mr. Hutchinson explained that Mr. Goodwin has spoken with City Staff regarding the off street parking, and there is plenty of parking uptown to accommodate the area. Staff has reviewed this and is in support of the variance.

**Comments of Requester:** Jason Goodwin spoke on behalf of Goodwin Services. He explained that with the structure being the way it is, they could not put a parking lot near the building. They are going to repave the area around the building to provide for parking. He said there will be 9 parking spaces and one ADA space adjacent to the site, located in the City's right-of-way. If needed parking can over flow into a city lot or Hinkleys lot.

**Comments of Citizens:**

**Discussion by BZA Members:** Mr. Zwiezinski moved to approve the variance, seconded by Mr. Moore. Question put, stood:

Mr. Zani YES;	Mr. Moulton YES;	Ms. Taylor YES;
Mr. Zwiezinski YES;	Mr. Moore YES;	Mr. Kessler YES;
Mr. Mickley YES		

The variance was approved 7-0.

**To hear a request for an appeal to the decision of the Design Review Board for demolition of two buildings located on the same parcel at 603 E 5th Street and 144-120 Vine Street in the BR (Business Residential) zoning district. Filed by O'Reilly Auto Enterprises, LLC.**

**Comments of Zoning Inspector and/or City Planner:** Mr. Hutchinson explained the process in which this appeal has come before the Design Review Board.

**Comments of Requester:** Wendal Miller on behalf of O'Reilly Auto Enterprise spoke to the board. He explained the condition of the homes that they are wanting to demolish and how it would cost more to repair them then they are worth. He explained that he did not feel that there was any historical significance to the homes. Mr. Miller presented an existing condition report that O'Reilly's had commissioned. Mr. Flowers state that the Design Review Board suggested the applicant provide a 3<sup>rd</sup> party report on the existing conditions. This report is not a third party per the requirements of the Zoning code.

**Comments of Citizens:** Donald Boerger spoke against the demolishment of the homes, because they are in the historic district and that area is disappearing. He also mentioned that they are home owners and they should have known what the costs would be to upkeep the house. He also commented that this area is the gateway to the historic downtown and we do not want it cluttered with commercial property.

Tim Schacht spoke against the demolishment of the homes, because they are in the historic district. He also implied about the homeowners should be willing to pay for the upkeep to the homes.

Kristy Dearing spoke against the demolishment of the homes, because they are in the historic district and there is a reason that they were put in the historic district.

Bob Parrott spoke on behalf of the Union County Historical Society. He explained that he gave a report stating that there is historical significance to the properties. He explained who lived there and what the significance was. Mr. Mickley commented that those are just stories, which has no real historic significance.

John Metcalf of 603 E. Fifth Street, one of the homes up for demolition. He explained to the board that he has put in the house over \$238,000 in ten years. He does not plan on putting any more money into the property. He also stated he has had the property up for sale since 2008 and has had no offers on the property other than commercial properties. He has only been contacted 3 times about the property over seven years.

Robert Anderton spoke to the board against the demolition of the properties. He said he just bought a home in the historic district because of the history in the area. He requested that the homeowners who would like their houses demolished provide a third party report on the historic significance as well as the condition of the homes.

Lane Stillings of 611 E. Fifth Street, one of the homes up for demolition. He explained that the house is old and it has a special type of heating unit in the home, which is broken and you cannot order replacement parts to fix it. He explained that they do not have heat in the house, they heat three of the rooms, because the house does not have a furnace or air conditioning. He said they tried to get a loan against the home to make improvements and they had filled out the paperwork and were ready to sign when the bank told them their home was one of a kind and they had to deny the loan because they had no other house to compare it too.

**Discussion by BZA Members:** Mr. Mickley moved to uphold the Design Review Board's ruling that the home does have historic significance, seconded by Mr. Zwiezinski. Question put, stood:

Mr. Moulton YES; Ms. Taylor YES; Mr. Moore YES; Mr. Zwiezinski YES;  
Mr. Kessler NO; Mr. Mickley NO; Mr. Zani NO;

Mr. Mickley moved that deterioration of the homes is beyond repair, seconded by Mr. Zwiezinski. Question put, stood:

Mr. Zani YES; Mr. Moulton YES; Ms. Taylor YES; Mr. Zwiezinski NO;  
Mr. Moore NO; Mr. Kessler YES; Mr. Mickley YES

Mr. Zwiezinski moved to grant the appeal for 603 E. Fifth Street and 114-120 Vine Street, seconded by Mr. Mickley. Question put, stood:

Mr. Moore YES; Mr. Zani YES; Mr. Moulton YES; Ms. Taylor NO;  
Mr. Zwiezinski NO; Mr. Kessler YES; Mr. Mickley YES

The appeal was granted. 5-2

**To hear a request for an appeal to the decision of the Design Review Board for demolition of a building located at 611 E 5th Street in the BR (Business Residential) zoning district. Filed by O'Reilly Auto Enterprises, LLC.**

This information was discussed with the above appeal.

**Comments of Zoning Inspector and/or City Planner:**

**Comments of Requester:**

**Comments of Citizens:**

**Discussion by BZA Members:** Mr. Mickley moved that the home at 611 E. Fifth Street does not have historic significance, seconded by Mr. Moulton:

Mr. Moore YES; Mr. Zani YES; Mr. Moulton YES; Ms. Taylor YES;  
Mr. Zwieninski YES; Mr. Kessler YES; Mr. Mickley YES

The Board agreed that the home did not have any historic significance.

Mr. Zwieninski moved to grant the appeal for 611 E. Fifth Street, seconded by Mr. Mickley. Question put, stood:

Mr. Zwieninski NO; Mr. Kessler YES; Mr. Mickley YES; Mr. Moore NO;  
Mr. Zani YES; Mr. Moulton YES; Ms. Taylor NO

The board denied the appeal. Mr. Aslaner explained that the board just denied the appeal after they found no historic significance. Mr. Zwieninski explained he was confused on what they were voting on, he thought they had to take the deterioration and economic use into consideration. Mr. Aslaner explained they were just voting to approve the appeal.

Mr. Zwieninski moved to reconsider the vote to approve the appeal at 611 E. Fifth Street, Seconded by Mr. Moulton. Question put, stood:

Ms. Taylor YES; Mr. Zwieninski YES; Mr. Kessler YES; Mr. Mickley YES;  
Mr. Moore YES; Mr. Zani YES; Mr. Moulton YES

The appeal was approved.

**ADJOURNMENT:** The meeting was adjourned at 9:15 p.m.