



## Meeting Minutes Board of Adjustment

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Tuesday, April 25, 2017

5:00 PM

Council Chamber

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### *4:00 - 5:00 PM - Work Session for Agenda Review*

Boardmember Jackson opened the work session at 4:07 PM.

Mrs. Rees introduced case BOA 17-004 for a request of an appeal of the comprehensive Zoning Ordinance which limits the rear yard coverage with a structure to 50%. Mrs. Rees briefly presented a PowerPoint presentation and displayed a buffer of the notices that were sent out, renderings of the site, and site plans. A brief discussion was held regarding a timeline of the submitted applications and plans, garage access, and the maximum allowed coverage. The applicant, Kevin Wiley, and the homeowner of 4300 Hanover Avenue, Mark McWatters, were present for the work session.

Mrs. Rees moved forward to introduce case BOA 17-005 for a request of an appeal to build a one car garage. Mrs. Rees provided a rendering of the site and recommended that the Boardmembers approve the case. The applicant and property owner, Ben Clark, was present for the work session.

Mrs. Rees lastly presented a PowerPoint presentation for case BOA 17-006 for a request of an appeal of the comprehensive Zoning Ordinance which requires all new single family residential dwellings to be constructed with the average front yard setback of the block. The Boardmembers held a brief discussion regarding the average front setback, the dedicated right-of-way, and the precedent that this would set for future construction. The applicant and property owner, Les Owens, was present for the last portion of the work session.

The work session was closed at 4:34 PM.

### *Call to Order*

Chairman Moore called the meeting to order at 5:01 PM.

### *Introduction of Board Members*

**Present:** 2 - Jeff Barnes and Ann Shaw

**Excused:** 3 - Darrell Lane, Eurico Francisco and Jim Hitzelberger

**Seated:** 5 - Chairman Eddy Moore, John Jackson, Clay Snelling, Bobby Womble and Kevin Maguire

*Staff in Attendance*

Jessica Rees, City Planner,  
Cecilia Mena, Planning Technician,  
Rob Dillard, City Attorney.

*The Board of Adjustment of the City of University Park will conduct a public hearing in the Council Chamber. Consideration will be given to the following item(s):*

[BOA 17-004](#)

Property owner Mark McWatters, requesting an appeal of a determination made by the Building Official with regard to Section 21-100 (d) (ii) of the comprehensive zoning ordinance which limits the rear yard coverage with a structure to 50%.

Chairman Moore asked Boardmember Jackson to read each case then swore-in those persons wishing to speak to the items and opened the public hearing. Chairman Moore requested that the applicant approach the podium to speak on behalf of BOA 17-004.

Kevin Wiley, Tower Custom Homes, approached the podium and presented the Boardmembers with clarification of when the plans for the outdoor kitchen and covered structure were submitted for plan review, denied, and approved. Mr. Wiley also provided a brief timeline of each submission to the Community Development Department and the Board of Adjustments. Mr. Wiley explained his reasoning behind his request of an appeal. Mr. Wiley also expressed that this appeal was due to an interpretation issue by the former Building Official. Mr. Wiley provided the Boardmembers with copies of his site plans and an e-mail chain between himself and his architect regarding the proposed structure. A brief discussion was held regarding this information.

Mark McWatters, the homeowner at 4300 Hanover Avenue, approached the podium. Mr. McWatters provided the Boardmembers with renderings of his property. Mr. McWatters offered his opinion about the hardships that his property had including a 90 year old oak tree that he did not want to remove. Mr. McWatters also explained that there were multiple structures in his neighborhood that were similar to his proposed covered structure. Mr. McWatters informed the Boardmembers of what his interpretation of a covered structure was and the benefits that the addition would bring to his family and neighbors. Mr. McWatters offered to answer any questions from the Boardmembers.

Chairman Moore asked if there was anyone else to speak on behalf of the applicant. With no one else to speak, Chairman Moore asked the Boardmembers for comments or questions.

A brief discussion was held between the Boardmembers, Mr. McWatters, and Mr. Wiley regarding similar structures, the 50% allowed coverage in the rear yard, and other zoning issues.

Mrs. Rees offered information from the Zoning Ordinance regarding the coverage issues that were in question. Mrs. Rees provided the Boardmembers with the City's copy of the denied plans of the proposed covered structure. Mrs. Rees also explained that although Mr. Wiley expressed that the former planning official provided him with a verbal approval, it would have been necessary for the Building Official to review the building plans.

Chairman Moore requested for anyone to speak in a opposition to approach the podium. With no one to speak, the Boardmembers held a brief

discussion regarding a request of an appeal, a request of a variance, and the former Building Officials decision to deny the plans. Mr. McWatters commented that although he would prefer a covered structure, if denied, he would be happy with an alternative like a trellis also.

Chairman Moore requested for the Boardmembers to make a motion regarding this matter.

After the motion was granted, Chairman Moore stated that although the interpretation of the former Building Official was correct, a variance was granted to build a roof how it was originally designed because of the way that the application was applied.

**A motion was made by Boardmember Jackson, seconded by Boardmember Womble, that a Variance be granted and approved. The motion carried by a unanimous vote.**

#### [BOA 17-005](#)

Property owners Ben and Amanda Clark, requesting an appeal of a determination made by the Community Development Director with regards to Section 26-100 of the comprehensive zoning ordinance which requires all single family residential dwelling districts to provide two parking spaces in a garage.

Ben Clark, resident at 4417 Grassmere Lane, approached the podium and explained the reasoning behind applying for an appeal to build a one car garage. Mr. Clark informed the Boardmembers that he was unable to fit a two car garage on his property due to an existing red oak tree. Mr. Clark also mentioned the benefit of getting more cars off of the street.

Chairman Moore requested for anyone to speak in favor of the request.

Mr. Beasley, a former Board of Adjustments member, approached the podium and expressed his opinion that a tree should be constituted as a hardship.

With no one else to speak in favor, Chairman Moore requested for anyone to speak in opposition to approach the podium. With no one to speak, Chairman Moore closed the public hearing for this item.

**A motion was made by Boardmember Womble, seconded by Boardmember Maguire, that this Appeal be approved. The motion carried by a unanimous vote.**

[BOA 17-006](#)

Property owner Les Owens, requesting an appeal of a determination made by the Community Development Director with regards to Section 21-100(4)(a)(iii) of the comprehensive zoning ordinance which requires all new single family residential dwellings to be constructed with the average front yard setback of the block.

Les Owens, contractor and resident, approached the podium. Mr. Owens explained that this particular block has an average front yard setback that has a twelve foot discrepancy from the first lot to the last lot throughout the block. Mr. Owens expressed that the distinctive divide would not keep the streetscape that is in the City of University Park. Mr. Owens provided the Boardmembers with renderings of homes that are aligned in the City. Mr. Owens also expressed that he also considered the articulation method which would set the property back further on one side.

Chairman Moore requested for anyone to speak in favor of the request. With no one to speak, Chairman Moore requested for anyone to speak in opposition to approach the podium. With no one to speak, Chairman Moore requested that Mrs. Rees provide any comments regarding this case.

Mrs. Rees approached the podium and explained that the Community Development Department did not receive any formal responses regarding this case and also mentioned that the neighboring property received a variance. Mrs. Rees informed the Boardmembers to be mindful of the precedent that would be set for the neighbors in the future if approved.

A discussion was held between the Boardmembers and Mr. Owens regarding related information in the Zoning Ordinance.

With no one else to speak, Chairman Moore closed the public hearing for this item.

Although the public hearing was closed, a discussion was held regarding the date when the front setback information was placed in the Zoning Ordinance, the depth and unusual deviation of this block, and the current Zoning Ordinance revision. The Boardmembers suggested that the applicant withdraw his request for an appeal and reapply for a variance because of the fact that the scope of this request was outside of what could be granted based upon the current application.

**This Appeal was withdrawn by the applicant. There was no motion or vote that was made.**

*Consider the previous meeting minutes with or without corrections:*

[17-57](#)

Minutes for the Board of Adjustment meeting dated January 24, 2017.

**A motion was made by Chairman Moore, seconded by Boardmember Jackson, that the Minutes be approved as amended. The motion carried by a unanimous vote.**

*ADJOURNMENT: With there being no further business before the Board, Chairman Moore adjourned the meeting at 5:49pm.*

*Approved by:*

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*Chairman Eddy Moore*

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*Date*