



Mobile Board of Zoning Adjustment Results Agenda

September 11, 2023 – 2:00 P.M.

ADMINISTRATIVE

Roll Call

X	Mr. William L. Guess, Chairman Left after voting on application #1
X	Mr. Sanford Davis, Vice Chairman Left before voting on application #4
X	Mr. Lewis Golden
X	Mr. Adam Metcalfe
X	Mr. Jeremy B. Milling Chaired meeting after Mr. Guess left
X	Mr. Chris Carroll
X	Mr. Gregory Morris, Sr.
X	Mr. Taylor Atchison, Supernumerary
	Supernumerary

Order of hearing: # 4, 9, then 1 - 16

Staff: Doug Anderson, Margaret Pappas, Marie York, Bert Hoffman, Victoria Burch, Grace Toledo, Brenda Moses, Shayla Beaco

Motion TO ADOPT THE AGENDA by SD (Chris Carroll) second by Gregory Morris.

PUBLIC HEARINGS

1. BOA-002541-2023

Case #: 6529/6394
Location: 133 Eaton Square
Applicant / Agent: Richard and Mellie Noblet
Council District: District 5
Proposal: Side Street Side Yard Setback Variance to allow the construction of a garage less than ten feet (10') from a side street side yard property line in an R-3, Multi-Family Residential Suburban District; the Unified

Development Code (UDC) requires a 25-foot side street side yard setback in an R-3, Multi-Family Residential Suburban District.

Motion TO APPROVE by Jeremy Milling second by Adam Metcalfe. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

The approval is subject to the following conditions:

- 1) Revision of the addition to remove the encroachment into the 7.5 foot drainage and utility easement; and
- 2) Submission and recording of a subdivision application to alter the recorded setback line along Old Shell Road.

2. BOA-002543-2023

Case #: 6530
Location: 63 North Julia Street
Applicant / Agent: Charles B. Matthews, Jr.
Council District: District 2
Proposal: Use Variance to allow a commercial kitchen in an R-1, Single-Family Residential Urban District; the Unified Development Code (UDC) does not allow a commercial kitchen in an R-1, Single-Family Residential Urban District.

Motion TO DENY by Greg Morris second by Lewis Golden. **Denied.**
Taylor Atchison opposed.

After discussion, the Board determined the following findings of fact for denial:

- 1) The variance will be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will not result in unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

3. BOA-002575-2023

Case #: 6531
Location: 2153 Venetia Road
Applicant / Agent: Brent Hider
Council District: District 4
Proposal: Use Variance to allow an accessory structure to remain on a lot without a primary structure in an R-1, Single-Family Residential Suburban District; the Unified Development Code (UDC) does not allow an accessory structure on a lot without a primary structure in an R-1, Single-Family Residential Suburban District.

Motion TO APPROVE by Adam Metcalfe second by Lewis Golden. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

4. BOA-002576-2023

Case #: 6532
Location: 331 Hadrian Street
Applicant / Agent: Valerie White
Council District: District 5
Proposal: Use Variance to allow a commercial food truck commissary and a food truck to be parked in an R-1, Single-Family Residential Suburban District; the Unified Development Code (UDC) does not allow a commercial food truck commissary or food trucks to be parked in an R-1, Single-Family Residential Suburban District.

Motion TO DENY by Jeremy Milling second by Lewis Golden. **Denied.**

Chris Carroll opposed. Sanford Davis left prior to the vote.

After discussion, the Board determined the following findings of fact for denial:

- 1) The variance will be contrary to the public interest, as the parking of a food truck and the establishment of a commissary is not appropriate in a residential area;
- 2) Special conditions do not exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

5. BOA-002577-2023

Case #: 6533/4639/4435
Location: 1057 Tennessee Street
Applicant / Agent: Bethel Engineering
Council District: District 3
Proposal: Use Variance to amend a previously approved Use Variance to allow the expansion of a float barn in an R-1, Single-Family Residential Urban District; the Unified Development Code (UDC) does not allow the expansion of a float barn in an R-1, Single-Family Residential Urban District.

Motion TO APPROVE by Taylor Atchison second by Adam Metcalfe. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

6. BOA-002583-2023

Case #: 6534/15
Location: 1956 St. Stephens Road
Applicant / Agent: DeLaurence R. Johnson
Council District: District 2
Proposal: Sign Variance to allow a digital sign within 300-feet of residentially zoned property in a B-2, Neighborhood Business Urban District; the Unified Development Code (UDC) does not allow digital signs within 300-feet of residentially zoned property in a B-2, Neighborhood Business Urban District.

Motion TO APPROVE by Chris Carroll second by Adam Metcalfe. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

The approval is subject to the following condition:

- 1) obtaining of the necessary sign permit, with the sign manufacturer’s certifications of compliance with the digital sign standards.

7. BOA-002591-2023

Case #: 6535
Location: 2485 West I-65 Service Road North
Applicant / Agent: Munn Enterprises, Inc. (Kerri McAlpine Little, Agent)
Council District: District 1
Proposal: Sign Variance to allow four (4) signs, one of which exceeds 350 square feet on a single-tenant commercial site in an I-2, Heavy Industry District; the Unified Development Code (UDC) does not allow more than three (3) signs, and limits wall signs to a maximum of 350 square feet for a single-tenant commercial site in an I-2, Heavy Industry District.

Motion TO APPROVE by Adam Metcalfe second by Chris Carroll. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

8. BOA-SE-002596-2023

Case #: 6536/6219/6048/1637/59
Location: 1260 and 1262 Dauphin Street, and 4 North Ann Street
Applicant / Agent: Central Presbyterian Church (Chris Bullock, Agent)
Council District: District 2
Proposal: Special Exception Variance to allow massage therapy in a B-1, Buffer Business Urban District; the Unified Development Code (UDC) requires a Special Exception to allow massage therapy in a B-1, Buffer Business Urban District.

Motion TO APPROVE by Greg Morris second by Taylor Atchison. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The proposed use is in harmony with the general purpose, goals, objectives and standards of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City.

- 2) The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety and general welfare either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City or other governmental agency having jurisdiction to guide growth and development.
- 3) The proposed use will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, and services specified in this subsection.
- 4) The proposed use is consistent with all applicable requirements of this Chapter, including: any applicable development standards in Article 3; and any applicable use regulations in Article 4.
- 5) The proposed use is compatible with the character of the neighborhood within the same zoning district in which it is located.
- 6) The proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
- 7) The proposed use will have no more adverse effects on health, safety or comfort of persons living or working in the neighborhood, or will be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district.
- 8) The site is designed to provide ingress and egress that minimize traffic hazards and traffic congestion on the public roads.
- 9) The site is designed to minimize the impact on storm water facilities.
- 10) The use will be adequately served by water and sanitary sewer services.
- 11) The use is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
- 12) The use will not be detrimental or endanger the public health, safety or general welfare.

9. BOA-SE-002598-2023

Case #: 6537/6205
Location: 2600 Burden Lane
Applicant / Agent: McDowell Knight (Stephen Harvey, Agent)
Council District: District 1
Proposal: Special Exception to allow railroad facilities in an I-1, Light Industry District; the Unified Development Code (UDC) requires a Special Exception to allow railroad facilities in an I-1, Light Industry District.

Motion TO APPROVE by Adam Metcalfe second by Greg Morris (Taylor Atchison). **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The proposed use is in harmony with the general purpose, goals, objectives and standards of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City.

- 2) The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety and general welfare either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City or other governmental agency having jurisdiction to guide growth and development.
- 3) The proposed use will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, and services specified in this subsection.
- 4) The proposed use is consistent with all applicable requirements of this Chapter, including: any applicable development standards in Article 3; and any applicable use regulations in Article 4.
- 5) The proposed use is compatible with the character of the neighborhood within the same zoning district in which it is located.
- 6) The proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
- 7) The proposed use will have no more adverse effects on health, safety or comfort of persons living or working in the neighborhood, or will be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district.
- 8) The site is designed to provide ingress and egress that minimize traffic hazards and traffic congestion on the public roads.
- 9) The site is designed to minimize the impact on storm water facilities.
- 10) The use will be adequately served by water and sanitary sewer services.
- 11) The use is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
- 12) The use will not be detrimental or endanger the public health, safety or general welfare.

The approval is subject to the following conditions:

- 1) The location of the railroad ties will not be altered from what is approved by the Board;
- 2) Retention of the 30-foot vegetative buffer, where the site abuts residentially zoned property;
- 3) Compliance with all Engineering comments noted in this staff report; and
- 4) Full compliance with all municipal codes and ordinances.

10. BOA-002601-2023

Case #: 6538/6233/5486
Location: 660 Dunlap Drive
Applicant/ Agent: Austal USA (Joey Nunnally, Agent)
Council District: District 2
Proposal: Building Height Variance to allow a building higher than 100-feet in an I-2, Heavy Industry District; the Unified Development Code (UDC) does not allow buildings higher than 100-feet in an I-2, Heavy Industry District.

Motion TO APPROVE by Adam Metcalfe second by Taylor Atchison. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

11. BOA-SE-002603-2023

Case #: 6539/5561/5394
Location: 1601 East I-65 Service Road South
Applicant / Agent: Adrian R. Gonzalez
Council District: Council District 4
Proposal: Special Exception to allow heavy equipment sales in a B-3, Community Business Suburban District; the Unified Development Code (UDC) requires a Special Exception to allow heavy equipment sales in a B-3, Community Business Suburban District.

Motion TO APPROVE by Greg Morris (Adam Metcalfe) second by Lewis Golden. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The proposed use is in harmony with the general purpose, goals, objectives and standards of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City.
- 2) The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety and general welfare either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City or other governmental agency having jurisdiction to guide growth and development.
- 3) The proposed use will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, and services specified in this subsection.
- 4) The proposed use is consistent with all applicable requirements of this Chapter, including: any applicable development standards in Article 3; and any applicable use regulations in Article 4.
- 5) The proposed use is compatible with the character of the neighborhood within the same zoning district in which it is located.
- 6) The proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

- 7) The proposed use will have no more adverse effects on health, safety or comfort of persons living or working in the neighborhood, or will be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district.
- 8) The site is designed to provide ingress and egress that minimize traffic hazards and traffic congestion on the public roads.
- 9) The site is designed to minimize the impact on storm water facilities.
- 10) The use will be adequately served by water and sanitary sewer services.
- 11) The use is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
- 12) The use will not be detrimental or endanger the public health, safety or general welfare.

The approval is subject to the following conditions:

- 1) Hours of operation limited to Monday thru Friday, 7 AM – 5 PM, and Saturday, 8 AM – 1 PM as stated in the application; and
- 2) Revision of the site plan to depict a compliant residential buffer, where appropriate.

12. BOA-002604-2023

Case#: 6540
Location: 2318 St. Stephens Road
Applicant / Agent: Sign Medics LLC
Council District: District 1
Proposal: Sign Variance to allow two (2) wall signs for a tenant on a multi-tenant site in a B-3, Community Business Urban District; the Unified Development Code (UDC) does not allow two (2) wall signs for a tenant on a multi-tenant site in a B-3, Community Business Urban District.

Motion TO APPROVE by Lewis Golden second by Greg Morris. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

13. BOA-002605-2023

Case #: 6541
Location: 3366 Cottage Hill Road
Applicant / Agent: Byrd Surveying, Inc.
Council District: District 5
Proposal: Front Yard Setback Variance to allow a reduced front yard setback in a B-3, Community Business Suburban District; the Unified Development Code (UDC) does not allow a reduced front yard setback in a B-3, Community Business Suburban District.

Motion TO APPROVE by Adam Metcalfe second by Lewis Golden. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

14. BOA-002608-2023

Case #: 6542
Location: 3662 Dauphin Street
Applicant / Agent: Merrill P. Thomas Co, Inc. (Pratt Thomas, Agent)
Council District: District 7
Proposal: Sign Variance to allow five (5) freestanding signs for a multi-tenant site in a B-2, Neighborhood Business Suburban District; the Unified Development Code (UDC) does not allow five (5) freestanding sign for a multi-tenant site in a B-2, Neighborhood Business Suburban District.

Motion TO APPROVE by Taylor Atchison second by Lewis Golden. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

If approved, the following conditions should be applied to the approval:

- 1) obtaining of the necessary sign permit; and
- 2) full compliance with all other municipal codes and ordinances.

15. BOA-SE-002611-2023 & BOA-002613-2023

Case #: 6543
Location: 5575 Commerce Boulevard East
Applicant / Agent: Telecad Wireless, Inc. (Allen Rogers, Agent)
Council District: District 4
Proposal: Special Exception and Lot Size, Height, and Setback Variances to allow a 180-foot high telecommunications facility requiring a Class 4 permit, on a sub-standard lot, with a reduced setback in a B-5, Office Distribution District; the Unified Development Code (UDC) requires a Special Exception to allow a telecommunications facility requiring a Class 4 permit, requires all lots to be a compliant minimum size, limits structure heights to 45-feet, and requires a property line setback equal to the tower height in a B-5, Office Distribution District.

Special Exception

Motion TO APPROVE by Taylor Atchison second by Adam Metcalfe. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The proposed use is in harmony with the general purpose, goals, objectives and standards of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City.
- 2) The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety and general welfare either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City or other governmental agency having jurisdiction to guide growth and development.
- 3) The proposed use will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, and services specified in this subsection.
- 4) The proposed use is consistent with all applicable requirements of this Chapter, including: any applicable development standards in Article 3; and any applicable use regulations in Article 4.
- 5) The proposed use is compatible with the character of the neighborhood within the same zoning district in which it is located.
- 6) The proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
- 7) The proposed use will have no more adverse effects on health, safety or comfort of persons living or working in the neighborhood, or will be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district.

- 8) The site is designed to provide ingress and egress that minimize traffic hazards and traffic congestion on the public roads.
- 9) The site is / is not designed to minimize the impact on storm water facilities.
- 10) The use will be adequately served by water and sanitary sewer services.
- 11) The use is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
- 12) The use will not be detrimental or endanger the public health, safety or general welfare.

Variations

Motion TO APPROVE by Taylor Atchison second by Adam Metcalfe. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

16. BOA-002614-2023

Case #: 6545/6055
Location: 312 Schillinger Road South
Applicant / Agent: Floor and Décor Outlets of America, Inc. (Joseph J. Minus, Jr., Agent)
Council District: District 7
Proposal: Sign Variance to allow one (1) logo wall sign larger than 350 square feet, and one (1) informational wall sign with logo larger than 20 square feet for a tenant on a multi-tenant site in a B-3, Community Business Suburban District; the Unified Development Code (UDC) does not allow logo wall signs larger than 350 square feet, or information wall signs with logos larger than 20 square feet for a tenant on a multi-tenant site in a B-3, Community Business Suburban District.

Motion TO APPROVE by Adam Metcalfe second by Taylor Atchison. **Approved.**

After discussion, the Board determined the following findings of fact for approval:

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.