



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Minutes - Final Board of Zoning Adjustments

Tuesday, June 18, 2019

1:30 PM

Municipal Center

1. Call to Order

2. Roll Call

Present 4 - Doug Gilmore;Max Dacus Jr.;Rick Miles and Sean Stem

3. Approval of Minutes

[MIN-19:059](#)

MINUTES: BZA Minutes from April 16, 2019 BZA Meeting.

Attachments: [Meeting Minutes from April 16, 2019.pdf](#)

A motion was made by Sean Stem, seconded by Max Dacus Jr., that this matter be Approved. The motion PASSED with the following vote:

Aye: 3 - Max Dacus Jr.;Rick Miles and Sean Stem

4. Appeal Cases

[VR-19-14](#)

VARIANCE: 502 Parkview Street

Felix Cruz is requesting a variance for address 502 Parkview Street for shop building built to 20 ft tall. The building was supposed to be 14 ft. So variance is for 6 feet in height difference. This is located in R-1 Single Family Medium Density District.

Attachments: [Application.pdf](#)
[Drawing of Building.pdf](#)
[Plans.pdf](#)
[Plat.pdf](#)
[SFR 18-636 502 PARKVIEW - DETACHED GARAGE.pdf](#)
[USPS Receipts.pdf](#)
[Accessory Uses - Code.pdf](#)
[Pictures of Location.pdf](#)

APPLICANT: Felix Cruz stated he is here for a variance for his shop building. It is too tall. The building was supposed to be 14', but I have to 6' higher.

COMMISSION: Doug Gilmore stated Mr. Cruz, you purchased a building permit for 14' tall and you made it 20' tall. Why did you do that?

APPLICANT: Felix Cruz stated he messed it up himself. I don't pay attention and built it too tall.

COMMISSION: Rick Miles asked if the building has been completed.

APPLICANT: Felix Cruz stated he has 12 x 6 posts on the corner and 2 x 12 around it. I have tarp around it so the storage doesn't get wet. It's not finished.

COMMISSION: Rick Miles asked if the roof was shingled.

APPLICANT: Felix Cruz stated yes, the roofing is finished and he put 1/2" plywood in the front and back and the tarp around it.

COMMISSION: Max Dacus asked if it would be possible to cut out the posts and lower it.

COMMISSION: Rick Miles stated the distribution of weight across that building, I don't know how you would hold it to lower it unless you can get a crane in there to hold it.

COMMISSION: Sean Stem stated he did notice in one that we're going to look at later in the same zoning you have got 12' accessory buildings and here it is 14'.

STAFF: Derrel Smith stated it is supposed to be 12'.

COMMISSION: Doug Gilmore asked Mr. Renshaw what he knew about this situation.

STAFF: Tim Renshaw stated I don't really know any more than you guys do. When we went over to inspect the building, the roof was already extended further than it should be. Since then he has put fencing around it trying to please the neighbors. In my opinion, there are probably outbuildings and structures all over town that are above 12'. A lot of people don't even know that this ordinance exists. The difference is, no one has complained about the others and someone has on Felix's.

COMMISSION: Doug Gilmore asked for public comment.

PUBLIC: Judy and Randy Howerton stated they own the house at 500 Parkview. Mr. Cruz bought the property, built a house, built the huge building there. It's been drug out for a while here and he's continued to work on the building. When we get ready to sell our property, there's a business sitting here.

COMMISSION: Rick Miles asked are you calling that building a business?

PUBLIC: Judy Howerton stated in my opinion, it is. He has his equipment out there. He's built the property up this much higher than ours so all of the drainage ran over on ours. There is a detention pond to the side of us the city put in. Now we're getting all of the water on us because that is all built up. That just looks like a barn. It's big, it's huge. Randy Howerton stated when he built his shop he was told it could only be a certain percentage of his house. This is way bigger. Judy Howerton stated when she called to start with the plans were for 12'.

COMMISSION: Doug Gilmore asked Mr. Cruz if he knew how many square feet his house is.

APPLICANT: Felix Cruz stated 1500 square feet.

PUBLIC: Judy Howerton stated she owns the house and her father lives in it right now. Eventually we want to sell the house. That's not going to be an easy thing to do with that there.

COMMISSION: Rick Miles asked, did you sell Mr. Cruz the property?

PUBLIC: Judy Howerton stated she did not. He bought the property.

COMMISSION: Rick Miles stated to applicant, you built the property up to build the house and shop. Is that correct? Did you bring the lot up in height prior to building that house?

APPLICANT: Felix Cruz was off mic and his response was inaudible.

COMMISSION: Doug Gilmore asked applicant, what is going to be on the property on a daily basis?

APPLICANT: Felix Cruz stated this is where he lives, his residence.

COMMISSION: Rick Miles asked, are you working out of your home? Are you doing your type of work through your shop?

APPLICANT: Felix Cruz stated he goes there to mess around when his wife is

mad at him. This is like my cave. I do hang out there a lot, but I don't do business there.

COMMISSION: Doug Gilmore asked, are you storing your trailers, materials, anything for your business?

APPLICANT: Felix Cruz stated, yes sir. When I do the job I have extra material. I put it there for the next job. There is no plumbing, no electricity there. No water, no sewer.

COMMISSION: Doug Gilmore asked how did we get a permit for a building that is 80% of the size of the home that is there. Was it a separate permit for this building? We needed a variance for that. It sounds like we should have had one for that. If we're going to let him build a structure that is two feet higher than our ordinances and 30% bigger than it should have been, we should have caught this a long time ago.

STAFF: Derrel Smith stated the permit was for a 12' structure. When the permit was issued it was supposed to be 12' to the peak. The reason it is probably bigger is because they did not ask the size of the house when they were issuing the permit. They just looked at the shop building only.

COMMISSION: Rick Miles asked, when this was discovered, was Mr. Cruz notified to cease all operations? (Answer off mic) It was already completed to that state.

COMMISSION: Sean Stem stated it looked like he bought a permit for one building and built something different.

COMMISSION: Doug Gilmore stated in the city's system one of the main questions should be how big is the structure that this accessory building is on the same lot with so they could do the math on the size. Now we have a homeowner with a building he may have to remove and we have homeowner's beside him that are not happy. We have got a large mess.

COMMISSION: Sean Stem asked, how tall are your sidewalls?

APPLICANT: Felix Cruz stated it is 13'. I used LBL, a long beam, it is 14 inches. I put it down. So it is 14" down to my ceiling.

COMMISSION: Sean Stem stated that he thought if he had room to put a flat roof, under 12' that would look better. Either way, it's out of the ordinance.

APPLICANT: Felix Cruz stated, I was going to make it 8', but then I called the guys that does the garage doors and he said there is not enough space because they need two feet for the door. It's my fault, it's not your fault. It's my fault because I'm supposed to come and ask him again that it will be ok. I built it taller thinking it would be ok, but it's not ok. If it's my fault I will tear it down. I cannot cut it. If I cut it, then it will be no good.

COMMISSION: Sean Stem stated he tries to understand every situation. We are here for hardships. This looks like you are turning a residential lot into a work area. You bought a permit and basically built something totally different or you wouldn't be here today.

A motion was made by Sean Stem to grant variance, no second, that this matter be Approved. The motion FAILED with no vote as there was no second.

STAFF: Derrel Smith asked Felix Cruz if he planned to build a structure on the existing slab. Mr. Cruz confirmed he was.

COMMISSION: Doug Gilmore called for the neighbors to come back up and stated as far as him building that up and causing water to run down on you, we cannot address that.

PUBLIC: Judy Howerton stated it does go against the code to do that.

STAFF: Derrel Smith stated they would have to work through engineering with that.

COMMISSION: Doug Gilmore asked, so you understand what we are doing here?

PUBLIC: Judy Howerton stated that you are going to let him build the building back the same size. Is this ok for it to be commercial?

COMMISSION: Doug Gilmore stated no, you are not supposed to run a business out of your home.

COMMISSION: Rick Miles stated the building itself, you cannot identify that secondary building as a commercial building. He has the right to build a secondary building as long as it is within the codes that are laid out for the size of the building. That is what we are trying to address right now.

COMMISSION: Doug Gilmore stated, let's say he is storing trailers on the property and it obviously looks like a business like you may see on Sims. What would be here remedy there?

STAFF: Derrel Smith stated, what we are having to do on that situation is go through the city attorney's office, get an affidavit, and site them to court.

COMMISSION: Doug Gilmore stated if it is a nuisance to you for what he is doing on that property, then you have a recourse. As far as today, we cannot address the lay of the land, but we can address the size of the building. Do we have a motion to grant Mr. Cruz a variance on the footprint, which is 80% of the size of the house and it is supposed to be 50% or less.

COMMISSION: Max Dacus asked, at this point are we allowed to go back and change something. He has already got a permit for that footprint. Is that something we can do, go back and change that? You're asking if we are going to give a variance on what is there which is larger than what was supposed to be.

COMMISSION: Doug Gilmore stated the system of the city should have caught this. I don't feel that the footprint of the building is Mr. Cruz's fault. Since he was not informed of the 50%, I think he needs to be granted the use of the size of that slab because of that. If he chooses to build the structure at the recommended 12', then he would be given the opportunity to do so on the

footprint that is there.

COMMISSION: Rick Miles asked the homeowners beside Felix Cruz, if we allow the variance on the size of that slab and he follows the regulations height-wise, brings it down to the 12' level that would allow that building to be rebuilt, is that something that you all would allow him to do on that property without further recourse?

PUBLIC: (inaudible off mic statement)

A motion was made by Rick Miles to grant variance to allow for building to be built on slab, seconded by Sean Stem, that this matter be Approved. The motion PASSED with the following vote. Rick Miles, Sean Steam and Max Dacus all Approved.

Nay: 3 - Max Dacus Jr.;Rick Miles and Sean Stem

[VR-19-16](#)

VARIANCE: 109 E. Forrest Road

George Hamman of Civilogic on behalf of Alice Evans, Etal is requesting a variance for address 109 East Forrest Road allow both of the front setbacks to be reduced to six feet and to allow a lot width less than the prescribed fifty feet of frontage, whatever the actual surveyed dimensions are. This is located within a C-3 General Commercial District.

Attachments: [Application.pdf](#)
[Letter.pdf](#)
[VARIANCE DOCUMENTS.pdf](#)
[Variance Plat - Revised](#)
[Variance Plat.pdf](#)
[Pictures.pdf](#)

Tabled

[VR-19-17](#)

VARIANCE: 509 Miller Street

Walter Jackson is requesting a variance for address 509 Miller Street to construct off street parking in front of duplex and entry doors facing adjoining property. This is located in R-3 Multi Family High Density District.

Attachments: [Application.pdf](#)
[Duplex Plans.pdf](#)
[Existing.pdf](#)
[Proposed.pdf](#)
[Residential Application.pdf](#)
[Pictures.pdf](#)

APPLICANT: Walter Jackson stated he own the property adjacent to the property for which he is seeking a variance. This is the apartment built in 2016 with plans to build one at 509. I offset the sidewalk going to the building with the setback of 7.5' so that everything would be symmetrical. I have several other buildings in the neighborhood within a couple blocks of there that are all built basically the same way. I do not do one here and one there. I try to do pairs to make it look nice. That is what this would do. I want to build a duplex a mirror image of what is already there. The variance would be for parking off the street. The lot is 50' by 145'. I would also like to do the entry doors facing the building I own right beside it. With a 50' wide lot, you cannot do parking in the back. You would have a driveway right up against the building to get to the back. With all of the extra concrete, you will have no room for grass.

COMMISSION: Max Dacus asked if there was a way of putting windows on that end because that is what the ordinance was drawn up to do. It is so you don't have those flat walls facing the street.

APPLICANT: Walter Jackson stated he could do a window in a bedroom on the corner that would face the street.

COMMISSION: Doug Gilmore stated what we have here is a situation where you built a property and then come back later to try and marry up to what you already built and there has been an ordinance change. The new ordinance is that the entrance must be toward the street. We are not meeting that requirement. You will need several variances here to make this happen; parking off the street, the entrance. Is that the plan there?

APPLICANT: Walter Jackson stated that is what is at 511 so that will also be what is at 509. I can do one window in the bedroom. IF I need to, I can do something in the brick to make it look like a bricked up window to match it on the other side where the bathroom is. All of the duplexes I have built in that area have all been fully bricked. I own two other lots on Miller. I plan to build two, three bedroom to bath single family houses there. Since this ordinance went in, those 50' lots pretty much impossible to do anything with. I own other lots in the area and my plan is to do houses. This one here, my plan was to build another duplex like the one that is there. That is the only reason I am asking for a variance on this lot.

COMMISSION: Rick Miles asked, this will be the last one you build the way that

it is setup today?

APPLICANT: Walter Jackson stated yes. It is just because he planned for the duplex back in 2016 before the ordinance changed. The other two lots down the street on Gordon and Miller, I plan to build two houses on those lots.

PUBLIC: No Comment.

A motion was made by Rick Miles, seconded by Sean Stem, that this matter be Approved. The motion **PASSED** with the following vote.

Aye: 3 - Max Dacus Jr.;Rick Miles and Sean Stem

[VR-19-18](#)

VARIANCE: 2401 Heath Lane

Timothy Dalton Palmer is requesting a variance for address 2401 Heath Lane to construct an Accessory Building that is larger than the single-family residence that is on the property. This is located in an R-1 Single Family Medium Density District.

Attachments: [Application.pdf](#)
 [Variance Request Letter.pdf](#)
 [Layout.pdf](#)
 [Overman Building Receipt.pdf](#)
 [Residential Application.pdf](#)
 [Pictures of Building.pdf](#)

APPLICANT: Dalton Palmer stated he is in the process of planning a 30' by 40' shop with a 20' extension carport and a 40' by 12' lean-to on the side. I am requesting a variance because the shop is larger than the house I live in currently. The house I live was built on the property in 1955. It is 880 square feet. I think it is classified as 900 in the records. The total area of the shop would be 2200 square feet. I come from Poughkeepsie, AR so this variance idea is new to me. When I talked to Mrs. Tracy she wanted me to explain the hardships that I needed to do this. I do not really understand the hardship part. I just want to do it for my hobby. I am a gearhead, I'm a mechanic. I love to fix cars. I have three vehicles right now on my property. I keep my motorcycle, mower, and other items in my shop. When I go to mow, I have to move my motorcycle out, get my mower out and move stuff around constantly. I want to build this bigger shop to hold both my trucks. I want it to hold my motorcycle. I am wanting to be able to work on them out of the sun. I want the carport so that I can wash my vehicles in the shade. Right now I am having to drive around my property and when you wash vehicles you leave ruts. I want to build that concrete so I can wash on concrete, wash it in the shade, and not have to worry about rutting up my yard. The lean-to, I would like to have it so I can put my wheelbarrow, my yard sprayer. I have a jet ski and a flat bottom boat at my parent's house. I would like to bring those up here. I do not want them sitting in my yard to leave dead spots and have them out in the open. I would like to have them shaded and sheltered. I like to keep my property as organized as I can. I have not built any of this and all I have bought is a culvert. That is the only progress I have done. I have marked it out with flags. I have told my neighbors and they approve of it. I have a girlfriend of ten years. She does not live with me right now. When she gets done with pharmacy school we do plan to add a second bathroom to the house and make a master bedroom. That was going to be my plan next. Right now it is perfect for me. It is two bedroom, one bathroom. Hopefully when she becomes a pharmacist we can build it to how we want.

PUBLIC: No Comment.

A motion was made by Sean Stem, seconded by Max Dacus Jr., that this matter be Approved. The motion PASSED with the following vote.

Aye: 3 - Max Dacus Jr.;Rick Miles and Sean Stem

[VR-19-19](#)

VARIANCE: 1404 Old Bridger Road

Jeremy Gibson is requesting a variance for address 1404 Old Bridger Road to build Accessory Building 17 ft tall instead of the 12 ft that is stated in the Accessory Building Code. This is located within an R-1 Single Family Medium Density District.

Attachments: [Application.pdf](#)
[Pictures of Building.pdf](#)
[Plat.pdf](#)
[Site Plan.pdf](#)

APPLICANT: Jeremy Gibson is looking to build a shop for his hobby. I collect cars. My dad and I have anywhere from 11 to 14 cars. The company that I have the building plan through is really stingy with their proprietary information including their pictures and everything else. I do not have a lot to go on. The building is a 30' by 40'. With a lean to on the side of it with an outdoor living area to give my wife something to have with this too. My home is 2600-2700 square feet under roof, total, including the garage. The variance I need is for the height. The height is going to be about 14' which is why I asked for 15'. I do not want to run into the issue that another gentleman here had. I want to be above and beyond. As far as size, we are good on that. We thought that was going to be an issue, but they got back with me. There is like four different setbacks on my property if you go back through the history of it. They said the 10' setback would work. I plan to be 12-14' off the line all the way around. The only issue I had with a neighbor is one neighbor was worried I was going to run a business out of it. I have a full time job. I just want a place to store things so we do not have cars sitting in the front of the house in the driveway. We drive these cars all of the time, anytime the weather permits. It is hard to when you have to move four cars. We store five or six at my dad's house which is a block away. I would like to have more stuff under cover, especially for my insurance, under cover and out of sight. My wife has three cars, where she can get her cars in the garage. My truck, I will probably not put in there just for the trouble of getting in and out. When you leave for work at 3 a.m. you do not want to have garage doors opening waking everybody up.

COMMISSION: Doug Gilmore stated the peak of your home's roof is going to be higher than the peak of your shop.

APPLICANT: Jeremy Gibson stated yes, by a long shot.

COMMISSION: Doug Gilmore opened the floor for public comment. There was none. Jeremy, have you check your bill of assurance or is there any covenant in this neighborhood.

APPLICANT: Jeremy Gibson stated that is what he thought was the issue when he started the variance. We turned in the paperwork and they came back to me and said you are good on all of this, just the height. We had not even thought about the height and then they asked, how tall is this and I said let me check. We were good on everything, but the height. I went back to the neighbors and showed them we had changed. I was needing a variance for each side before because in the bill of assurance on that property it is 25'. If

you read it at one time is was 25, then it was 15, and then the city said ten and they told me we have to go with 25. That sits it way too close to my house. They came back and said no, we can go with ten, you are good on that. They then asked about the height. I was not aware there was a 12' height limit.

COMMISSION: Doug Gilmore stated this board does not get into dealing with covenants. We just want to make sure that you have covered that.

COMMISSION: Max Dacus stated so he is requesting 15'.

APPLICANT: Jeremy Gibson stated we put 17'. I think it will be just a hair over 14'. I just want to have extra there because all the water runs from Bridger all the way down my property. If I have to build it up 8", I want to have room above that just in case. I really do not want to have water running straight down the drive and right into the building. Everything goes across my back fence into my neighbor's yard. We are trying to figure out a way I can drain what comes across me back to the back corner and come around. If I have to build up some to try and help him, we are trying to find a situation that gets him drained also while we are back there working on it.

COMMISSION: Sean Stem asked Derrell Smith about the requirements of the building and if it has to match to some degree.

STAFF: Derrell Smith stated that is going to be up to the covenant. We do not have a requirement on that.

APPLICANT: Jeremy Gibson stated he has colored pictures pulled up on his phone. It is actually the same color that I am going to use because it matches my house. That will make it blend in better.

COMMISSION: Doug Gilmore stated we can tell by how nice your place is that you are not going to mess it up.

COMMISSION: Rick Miles asked, if you are only storing cars in there, why such a tall building.

APPLICANT: Jeremy Gibson stated it is to put an automobile lift in the building. I have a lift at my dad's shop, but my dad is 75 years old. A lot of times we do double stack our cars. We will put one under the other. My wife's little car, I can put three of those. If something ever happens and my dad passes, then I will not have the building I use to raise them up to work on underneath. My back and knees are absolutely shot so if there is a wheel I have to work on, I have to get them up. That is the reason I decided I might as well do it up now. That is about the minimum I can clear if I put the posts on the side.

COMMISSION: Rick Miles stated the shop building on the adjacent property, do you happen to know the size of it?

APPLICANT: Jeremy Gibson stated he does not. That barn has been there before the other houses were there. I know that house was the first one built out there. I have no idea how tall his is. 10'-12' would be my guess on it. If you see the front of the house, the way the building is going to lay, you actually only see one bay door and about half the other. You will only see about half of the building.

COMMISSION: Rick Miles asked, are you going to access that building off of the right side of your driveway as you are pulling in now.

APPLICANT: Jeremy Gibson stated yes. There is a back-out spot on the right hand side of the drive. There is a turn-out now that goes back about 20'. I will just go off it straight through the fence. I already have the gate and everything made for it. It would go straight through right there.

COMMISSION: Rick Miles asked, what is the top height of that lift with a car on it?

APPLICANT: Jeremy Gibson stated the top height is a little over 10'. The top of your posts is basically where you stop anyway on a two post lift. It has a cable across there and if you hit that, it automatically turns it off. If you can put the post in there, that is as high as the building has to be. I believe it is 10', it might be 11'. I do have room to put that in there, just clearing where the building comes down and curves where I can space in a little over a foot and it just clears the top. That is with a 14.5' peak height.

PUBLIC: No Comment.

A motion was made by Rick Miles, seconded by Max Dacus Jr., that this matter be Approved. The motion **PASSED** with the following vote.

Aye: 3 - Doug Gilmore;Max Dacus Jr. and Rick Miles

Nay: 1 - Sean Stem

[VR-19-20](#)

VARIANCE: 2517 Evie Lane

Josh Moss of Moss Fencing on behalf of Bryce Throckmorton is requesting a variance for address 2517 Evie Lane to extend fence and having fence over the 6 ft height limit and to place the finished side in toward the house. This is located within an R-1 Single Family Medium Density District.

Attachments: [Application.pdf](#)
 [Layout.pdf](#)

APPLICANT: Josh Moss of Moss Fencing stated, originally when I submitted this we were requesting a variance to extended the fence to somewhere around a height of 8'. Not to exceed 8', but above the 6'. Also to turn the finished side inward toward the property. We still want to request both of these variances, but since this has happened, they have actually filled the yard. My original thought was that they were building a wall all the way around this yard and we were going to put a fence on top of that. Whereas the fence itself would not be over 6', it was going to extend over 6'. They filled the entire yard inside the wall. Now, we are back to ground level again. They just brought the ground up. There may be a chance that we end up on top of a wall at some point and somehow get over 6' so I still want to request that variance to have this fence potentially extend over 6', but to not exceed 8'.

COMMISSION: Doug Gilmore asked why are you wanting the good side to be in?

APPLICANT: Josh Moss stated that is just pretty standard. Everybody wants to see the nicest side of the fence that they are paying for. It's pretty common that we get that request. I, most of the time, can talk people out of it. These particular people did not want to. The style of fence we are going with is a little more decorative. It is a horizontal cedar. It does not have any of your structural horizontal two by four runners. It is all post and the pickets themselves are the horizontal. It basically looks the same from both sides. Somebody does still get to see the posts. They want the posts on the outside. They do have side fences already so everything we do is going to have to be done from the inside. We are trying to mitigate this problem of trying to build a fence on the outside when there really is nowhere to build it. We are requesting it to be at a maximum height of 8' and finished side in.

COMMISSION: Sean Stem asked, six foot on both sides, correct?

APPLICANT: Josh Moss stated yes, six foot on both sides, nothing across the rear. I was not able to locate the neighbor to the east, the neighbor to the west called me when he received his notification in the mail and said he could not care less. It had no effect on him.

COMMISSION: Max Dacus stated there really is not a hardship on raising the height of the fence. We typically have a hardship, someone has a child, or something. This one is just that you are unsure.

APPLICANT: Josh Moss stated as they keep filling in the yard and the plans change with what their landscaper is doing, it seems that we may end up not being above the new grade more than six feet. If we have to be on the wall

and they do not bring their grade up, and the grade is a foot below the wall, we now have built a seven foot fence and I did not want to be a part of that without a variance. Right now there is 18" of block showing. If that is where they stopped, I am about to build a fence that is seven and a half feet tall. We have no intention of going over 6' with the actual fencing.

COMMISSION: Rick Miles asked, is the customer going to be opposed if you stop it at a 6' height.

APPLICANT: Josh Moss asked, six foot from the top of the grade at the block? Not at all. That is all we are trying to accomplish.

COMMISSION: Rick Miles stated if Mr. Renshaw or whoever else comes out and measures that fence after you have installed it and it's over 6' then you are over the limit.

APPLICANT: Josh Moss stated the fence itself will not be over 6'.

COMMISSION: Rick Miles stated if you are going to go off of the top of a solid wall then measure from the base where it is actually touching the ground and go up to a six foot level. You are still going to accomplish what they are wanting.

APPLICANT: Josh Moss stated the height that they raised the fence, the ground level right now, basically you can walk over and the neighbor's 6' fence is shorter. They have raised the yard. It's a big difference. From the house to this area back here there is an eight or nine foot drop. I was never able to get clarification on grade. If this wall was there 30 years ago and the dirt has been there all this time, I would have rock and rolled, 6' tall, that has been the yard forever. With it being brand new and a brand new wall, I did not want to get myself involved with something where we are going to take grade from way down there where it was three months ago.

COMMISSION: Rick Miles stated no matter what you do you are going to wind up with part of this fence on that wall. Then that suddenly becomes a part of that wall, the fence.

APPLICANT: Josh Moss stated he does not think it will ever be on the wall. I think it will stay to the inside. After I applied for this variance assuming the fence was actually going in the wall, I show up and the yard is full of dirt and there is this tiered system. Now my fence can go inside the wall in the earth. Had they already had this 100%, I probably would have never come here and got a variance for the height. I would not have ever had intentions of being on top of the wall.

PUBLIC: No Comment.

A motion was made by Sean Stem, seconded by Rick Miles, that this matter be Approved. The motion PASSED with the following vote.

Aye: 3 - Doug Gilmore; Max Dacus Jr. and Rick Miles

Nay: 1 - Sean Stem

[VR-19-21](#)

VARIANCE: 2808 Fox Meadow Lane

The Learning Center of NEA, Inc. is requesting a variance for address 2808 Fox Meadow Lane from the Landscape Ordinance that require a tree island every 15 parking spaces and requesting to not provide required parking that is on the parking schedule for the Nursery School of 1 space per staff and 1 space per classroom. This is located within a C-3 General Commercial District.

Attachments: [Application.pdf](#)
 [Site Plan.pdf](#)

APPLICANT: Michael Boggs with Tralan Engineering is representing the Learning Center of NEA. I am requesting a variance at the facility at Fox Meadow from the landscaping ordinance that requires a tree island every 15 spaces and requesting not to provide the required parking on the parking schedule for the nursery school. Currently, there are 84 employees. That requires 84 spaces. Some of those employees are part time, here and there. You have 11 classrooms. That is 95 spaces. This new addition is not adding any new classrooms or any new employees. The parking that they have on-site now is adequate for how they operate now. We are asking that they not have to bring their parking lot up to the parking standard. Even without the addition their parking lot does not meet the required parking per the code now. The new area does not add employee. It is like a therapy area where they take kids. It not like a classroom where 20 kids are going to be. If we have to go in there and add the landscaping islands we are talking away from parking that is already there. There are talks of adding some spaces. They do have areas where we can paint off some additional stripes. With the way the traffic flows in, what they have is adequate for what they are doing.

COMMISSION: Sean Stem asked if the city has any comments on this.

STAFF: Derrel Smith stated their building size is big enough that they should comply with the new requirements. A parking lot is existing. It definitely does not have what we would require now.

APPLICANT: Michael Boggs stated they do meet the greenspace requirements. We do have existing trees and shrubbery landscape there on site to meet all of the landscaping requirements other than the tree islands. As far as bringing everything up for the parking, I do not see the space to add the additional eleven spaces of new parking to meet that requirement.

COMMISSION: Rick Miles asked, is that because you do not have the space available or is it because they do not want to spend the extra money to do the additional eleven spots?

APPLICANT: Michael Boggs stated on the site, there is not really any place to add additional parking. There are some areas where we can stripe some and try to gain as much of that as we can. There are maybe five or six additional spaces we can get striped off in some areas. I do not know of a way to get eleven.

COMMISSION: Sean Stem asked, how much area are you adding on here?

APPLICANT: Michael Boggs stated it is around 4800 square feet. The main piece of that structure is going to be added on to that southern building. They are wanting to connect the two buildings that way you do not have to walk out in the weather. It is an enclosed breezeway.

COMMISSION: Max Dacus stated if they reduced the size of their expansion to get it under the 20% then you would not have to make the changes.

STAFF: Derrel Smith stated if it is under 20%, you are not required to do the improvements, but any expansion in the future would automatically kick it in where you would have to. If you need the space, it may be cheaper to just do everything on the front instead of waiting. The person doing the building would have to make that determination.

COMMISSION: Sean Stem asked, how big is this southern building?

APPLICANT: Michael Boggs stated the southern building is approximately 11,000 square feet.

COMMISSION: Sean Stem stated that little area that is shown does not look like it would be 4800.

COMMISSION: Rick Miles stated the space that you are asking to be approved with no improvements as required by the ordinances is that the maximum amount of space that is needed or is that something that can be looked at to make it smaller?

APPLICANT: Michael Boggs stated that is the area that is needed to make the improvement that they are looking at. We will look at trying to stripe in some more spaces, but even if we were not to add anything, it does not meet requirements now. It serves its purpose. It is adequate for what they have going on. The new additional is not adding any new parking needs. If we have to start taking out spaces for islands, you take out two spaces per island. We would be losing eight or nine spaces or more with that. I am asking for the variance to keep it the way it is.

COMMISSION: Doug Gilmore stated the new ordinance is causing him to lose spaces that he cannot lose.

COMMISSION: Max Dacus asked, also with water retention, does that also kick in?

APPLICANT: Michael Boggs stated there is a large pea graveled playground type area that are there. That will be removed and that will all be grass. The will actually be a reduction in drainage from the new construction.

COMMISSION: Sean Stem asked Derrel Smith if the parking or landscaping was a bigger issue to the city.

STAFF: Derrel Smith stated it is both. The parking probably works right now, but if this operation changes use you have to worry that adequate parking is not there. That is something the buyer would have to be aware of. The greenspace is fine. The new landscape ordinance tries to prohibit these long

rows of asphalt with nothing to break it up. We have required the landscape island trying to break it up where it is visually more appealing. It also helps reduce the heat coming off the parking lots.

COMMISSION: Sean Stem asked, is the area they are adding a requirement or just something they are wanting to do?

APPLICANT: Michael Boggs stated they are trying to make the area better for the kids that they are working with. It is an open area for the therapy to help with that portion of the services they offer. They are not expanding their services as far as expanding employees, but they are expanding the service of that therapy with this.

PUBLIC: No Comment.

A motion was made by Sean Stem, seconded by Max Dacus Jr., that this matter be Approved. The motion **PASSED** with the following vote.

Aye: 3 - Max Dacus Jr.;Rick Miles and Sean Stem

5. Staff Comments

6. Adjournment