



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Minutes Board of Zoning Adjustments

Tuesday, May 21, 2024

1:30 PM

Municipal Center, 300 S. Church

1. Call to Order

Present 5 - Rick Miles; Casey Caples; Kevin Bailey; Doug Gilmore and Max Dacus Jr.

2. Roll Call

Present 5 - Rick Miles; Casey Caples; Kevin Bailey; Doug Gilmore and Max Dacus Jr.

3. Approval of Minutes

[MIN-24:040](#)

BZA Minutes - 04.16.2024

Attachments: [BZA Minutes - 04.16.24](#)

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: 4 - Rick Miles; Casey Caples; Kevin Bailey and Max Dacus Jr.

4. Appeal Cases

[VR-24-17](#)

VARIANCE REQUEST: The Reserves at Sage Meadows

Gulley Plumbing & Construction Co., LLC is requesting a variance from the landscaping ordinance. During construction, two tree islands located near buildings 5107 and 5207 were omitted to provide additional parking spaces for the development. The subject property is zoned R-3.

Attachments: [VR-24-17 - Adjoining Property Owner Notification](#)
[VR-24-17 - Adjoining Property Owner Notifications \(Signed\)](#)
[VR-24-17 - Certified Mail Receipts](#)
[VR-24-17 - Site Plan](#)
[VR-24-17 - Application \(Signed\)](#)

Doug Gilmore: We need to make a motion to table, please somebody.

Casey Caples: So moved.

Rick Miles: So moved.

Doug Gilmore: Alright, move to table number 1. Got a first and a second everybody say Aye.

All: Aye

A motion was made by Casey Caples, seconded by Rick Miles, that this matter

be . The motion PASSED with the following vote.

Aye: 4 - Rick Miles; Casey Caples; Kevin Bailey and Max Dacus Jr.

[VR-24-23](#)

VARIANCE REQUEST: 1720 S Caraway

Simmons Bank is requesting a variance from the fence ordinance to construct an 8' tall fence. The subject property is zoned C-3, General Commercial District.

Attachments:

[VR-24-23 - Application \(Signed\)](#)

[VR-24-23 - Adjoining Property Owner Notification](#)

[VR-24-23 - Mail Receipt](#)

[VR-24-23 - Site Plan \(Revised\)](#)

[VR-24-23 - Trex Fencing Picture](#)

Fred Reed (Proponent): Hello, I'm Fred Reid with Simmons Bank, and we want to erect a new fence along our north property line, at our new property there at Caraway that's under construction. It's proposed to have a 6 foot fence, but from the area in the very front of the building to the back of our parking lot there to go to 8 foot, we will have our stack up space and our people that are there in the drive thru adjacent to that fence and just on the other side of the fence we got 5 or 6 feet off of the property line on their side, the turquoise building that adjacent to there so, we'd like to hide that and not be looking at that while we're sitting in line there for the bank. Give us a little more privacy plus a little more security. So, not looking at 8 foot along the full portion there but just in the center portion from the front of the building to the back of our parking lot.

Doug Gilmore (Chair): Primarily people are gonna be pulling up and using the ATM, and the drive thru.

Fred Reed: Correct. The existing building there is gonna be about 5 or 6 feet off the property so it's gonna tower over a 6 foot fence. It's still gonna be towering over an 8 foot fence. But it will be a much better cut off of the visibility plus whatever future development may be done on that property in the future, which we don't know at this time.

Doug Gilmore: Questions from the board?

Rick Miles (Board): I'm assuming this is gonna be a permanent structure?

Fred Reed: It's permanent we're gonna use a Trex fence which is very good looking from both sides, from the neighbor's side as well as ours. Trex fence which is a permanent and very good looking fence. We've used it at some other branches.

Kevin Bailey (Board): I guess, what I'm questioning Mr. Chair, is I don't understand the hardship or the reason for an 8 foot fence versus 6 foot, especially since it's a solid fence. I'm not getting why we need an 8 foot fence.

Fred Reed: If the adjacent building wasn't quite as close, it would be helpful, but since it's only 5 foot off the property line, most of the building is going to be towering over the 6 foot fence, the 8 foot is again not going to totally obscure it but it would help.

Rick Miles: That 8 foot section that you're requesting is that strictly to enhance the drive thru lanes, where the vehicles can't be seen?

Doug Gilmore: It's to keep them from having to look at that building.

Fred Reed: Right, they're gonna be sitting in line, during the day while their waiting for one, and you also have the ATM that will be on the very end there, which is adjacent to it. So the big purpose of the fence in particular is we don't want people walking across, coming into, while someone is sitting at the ATM, that would be one of our reasons plus people that may be parked on the other

side, over there, coming over and parking on our part. But that's visibility as well as crossing from that side over into our property, and to have better control of who's coming across our property.

Casey Caples (Board): You kind of mentioned about future development because we don't know what's going over there. That would be the hard part for me because we don't know, if we let you put an 8 foot fence up, another development goes up over there and it's obstructing all that, it just seems that, I know across the board we have kind of agreed to not do 8 foot fences, and I think a good 6 fence, I don't see the hardship of needing to go higher than that.

Rick Miles: I'm having a hard time understanding why a 6 foot configuration of this fence, is not going to give you what you're asking for, and what's 2 foot more in that particular area. I'm having a very hard time understanding why you need an 8 foot section in that particular location. Because the fencing itself if I'm understanding what you're saying, is a closed fence.

Fred Reed: Correct, yes sir.

Rick Miles: If you're starting from point A to point B at the end. The security of what you're asking for is already gonna be there. Because they can't cross in the middle of that fence, whether it be 6 foot or 8 foot.

Fred Reed: Our grading is gonna help some but right now in portions of it, there's a 2 foot offset, where they're property is higher than our property, so the 6 foot is more like a 4 foot fence on our side, because of the difference of the grading, of the property adjacent to it on the other side there. We're gonna make up some of that with our grading, when we finish but it's still higher on their side than we are on our side. So, all that is sticking up a little more over the fence more than you would typically if it was all flat and level, and portions of it are flat but the further back you go, the more offset there is.

Kevin Bailey: So, to take that a step further, in this section that you're wanting to be 8 foot tall, the reason why you want it to be 8 foot tall, is because the adjoining property is at a higher elevation, so to make it more secure, you're needing it to be 8 foot. And I'm splitting hairs with you here, but gradation is causing the problem the dips in the gradation along that line-

Fred Reed: Our fence won't be erected up to their level, it's gonna be down at our level, so it'll be more like a 4 foot fence, instead of a 6 foot fence, because of the offset there.

Kevin Bailey: Right. Gotcha, that makes a little more sense to me, then just flopping out an 8 foot fence.

Fred Reed: And I agree we're probably not, the difference between a 6 foot fence and an 8, someone scaling or jumping over the fence to get to the ATM, probably not that great a deal, it might be psychology but it's not probably physically.

Kevin Bailey: I don't want to climb a 6 foot fence, or an 8 foot fence. I'd like to know what the city thinks about this.

Derrel Smith (City Planner): Ordinance says 6, I'm not sure that they can prove a hardship that they'd have to go higher than 6.

Kevin Bailey: So without being on one end an 8 foot section in an area of it, they don't need to be here for a 6 foot fence correct?

Kevin Bailey (Board): To make I understood something right. When you mentioned earlier you, got a 2 foot separation between grades, between the property north of you. I think you also mentioned that right now there's a 2 foot separation, that once you're done with pavement, curb, and all that good stuff, will you then be raised up to about match their level?

Fred Reed: We're gonna work to doing that as best as I can. That's true, but at his point, there's a pretty good difference.

Kevin Bailey: Mr. Chair I motion that we move forward to a vote.

Doug Gilmore: Can I get a second, please thank you.

Casey Caples: Second.

A motion was made by Kevin Bailey, seconded by Casey Caples, that this matter be Approved . The motion FAILED with the following vote.

Nay: 4 - Rick Miles;Casey Caples;Kevin Bailey and Max Dacus Jr.

[VR-24-24](#)

VARIANCE REQUEST: 4207 E Johnson

Waffle House is requesting a variance from the side setback from 10' to 5' as well as eliminating the cross access connection requirement with the neighbor to their West. The subject property is zoned C-3 LUO, General Commercial District in the Limited Use Overlay.

Attachments: [VR-24-24 - Application \(Signed\)](#)
 [VR-24-24 - Site Plan](#)
 [VR-24-24 - Adjoining Neighbor Notification \(Signed\)](#)
 [VR-24-24 - Adjoining Neighbor Notification Letters](#)

Doug Gilmore (Chair): Tell us your name and what you wanna do.

Yar Hosain (Proponent): I am Yar Hosain with Waffle House real estate and we are looking to build a new location off of East Johnson. There are two variances we are asking for today, one is gonna be on the side setback landscape buffer, we're showing our parking places 20 through 30. The ordinance requires a 10 foot landscape buffer, and we're asking for a variance to allow a 5 foot buffer there. The reason being, a couple of things have made the site fall into place where it is, DOT is required for the driveway in the location that we've shown it, and the fire department has required the circular access, and what we want to be able to maintain is for the owner of the property and his remaining land, to be able to use that island to also include parking on his property. By reducing our buffer to 5 feet, it would allow for the adjacent property to add parking trays there and meet all the requirements. And allow us to keep our parking as well. That's the first variance, the second is for the cross access, with the property to our west, it is Demo's Barbeque restaurant, it's been there for 11 years and Mr. Spencer Moore is here today as well and we've discussed this, the requirement for cross access through the front of our building there would run into his parking spaces, he would lose 3 parking spaces as a result of that cross access connection, and also where it terminates it goes into the parking spaces in the front of his lot, and interferes with his take out, drive thru circulation. This is not illustrated on our site plan, but these are issues that we've discussed that make it difficult for Waffle House as well as Demo's Barbeque, to have that cross access, and we would still be maintaining cross access with the adjacent property that we're showing here. Similar to what the Wendy's is doing with the bank, right across the street, but they were unable to have cross access with the carwash, a similar issue. There's a bit of a shelf, about a 3 foot grade difference between our property and Demo's barbeque and I've noticed it's pretty much what you'll see there with the car wash and the Wendy's. So, there's the two variances and I'm open to any questions if you have them.

Doug Gilmore: Everybody understands what they're wanting to do, are there any other questions?

Board: Do want to verify, cross access management and then also 5 foot landscape buffer reduction, that's what we're looking at?

Yar Hosain: Yes, correct.

Board: Cross access management for the west side, not the east side. Areas where that could be done, as you look at the plan at the end of that. If you head to the east. Demo's was built before the overlay.

Kevin Bailey (Board): Spencer you got anything to say?

Spencer (Demo's): Kevin, I understand that the way ours is laid out, that's our flow of traffic, coming around the building. Our pick up window will all go into, you know, that shared access. I don't want it, but you know, I think it will cause more problems and if we shared then what it could be.

Kevin Bailey: Mr. Derrel, didn't we have the same issue come up, cross access up by Harris Furniture when that financial institution took over and we had a gradation in that.

Casey Caples (Board): I was kind of wondering that on Demo's. I thought Demo's was set higher than that property to the east of it. Does it not? Like quite a bit. Isn't that grade pretty steep? Yeah Kevin we had that yeah with Harris Furniture the grade was so steep, you couldn't make that access management work out. It'd be a ramp coming in.

Kevin Bailey: Yeah, we did it was actually the financial institution.

Casey Caples: Yeah, you're right. Does that access management need to be located across the front?

Derrel Smith (City Planner): It can be anywhere on the lot.

Yar Hosain: So we did look at the rear as well, just to see if that could have been a way to approach it. They do have a depression on the barbeque restaurant's property, where it appears to be detaining water. It also runs through their drive-thru circulation area.

Spencer (Demo's): Yeah, my retention pond sits back there, and you can put it anywhere further back and I think it's going to mess up the flow of that.

Board: Going to swell through that parking lot to your east correct? Does your parking lot kind of swell and your water runs back behind? Okay.

Unable to transcribe

Kevin Bailey: And to clarify the distance between your proposed new driveway and Demo's existing driveway that distance has been dictated by ARdot, correct?

Yar Hosain: Correct. We'd always prefer to have a driveway through the center of our lot.

Doug Gilmore: Alright, any other questions?

Unable to transcribe

Derrel Smith: Originally on the landscape buffer, they had it originally until they had to accommodate fire access. So that's the reason for that.

Unable to transcribe

Casey Caples: I guess, I'll ask the city this more than anything, I'm looking at Demo's parking lot their curb is probably 5 foot off that property line. Would we rather see the 10 foot in the front of their parking lot? And take it 5 foot off the back? It's that a 10 foot from the property line to the back of the curb, or back of the building?

Board: You're saying shift the whole site west 5 feet?

Casey Caples: Yeah and snug up to that back property line, we'll call it the west property line.

Yar Hosain: I think the issue there is that it is still a swell, that's carrying water back to his pond. I think it would require a pretty significant develop cost to do a detention or retaining wall, something like this, this allows just kind of the inland development, you always want to maintain the most you can with the flow of water and things like this and what we've shown accommodates that.

Kevin Bailey: Mr. Chair I'll move for approval on both variances.

Doug Gilmore: Is there a second?

Max Dacus: Second.

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

Aye: 4 - Rick Miles; Casey Caples; Kevin Bailey and Max Dacus Jr.

[VR-24-25](#)

VARIANCE REQUEST: 3562 Dover St

Angelina Holt is requesting a variance from the fence ordinance to construct a fence 15' from the curb. The subject property is zoned R-1, Single-Family Medium Density District.

Attachments: [VR-24-25 - Application \(Signed\)](#)
 [VR-24-25 - Certified Mail Receipts](#)
 [VR-24-25 - Site Plan](#)

Doug Gilmore (Chair): Angela Holt.

Angelina Holt (Proponent): Hi, I'm Angelina Holt. I'm wanting a variance for a fence 15 feet off of our curve it's on our property line, and we just want it like the other corner lots in our neighborhood have, and I have satellite imagery of their fences if you want a visual.

Doug Gilmore: If you want to pass it out go ahead ma'am.

Angelina Holt: Eventually we're going to build out our patio, get a big shed. So, we want to utilize the square footage of the yard that we have and also, if we were to ever sell it because other people in our neighborhood have that extension of their backyard. I think someone would rather get something with a bigger privacy fence backyard than our shorter one. That's what we're wanting to do.

Doug Gilmore: Are we still working on changing these ordinances?

Derrel Smith (City Planner): No, we approved the ordinance but they want to go back to basically the right of way instead of 10 foot off. We changed it, and still wanted it 10 foot off the right away, so if there were any street improvements or anything it wouldn't affect the fences. They want it to go to the right of way.

Doug Gilmore: Any questions for Ms. Holt?

Board: This 3599 that you have given us in the handout where is that located at?

Angelina Holt: There's one across the street and there's two at the end of Dover.

Board: Those are about 15 feet you think?

Angelina Holt: Well, I know they were exactly the same amount that we're wanting because we, that's just visually what we want. I mean I didn't go out there and measure their fence. If you're looking at the one across the street, we want it exactly like they got.

Unable to transcribe

Kevin Bailey (Board): So, I would be hesitant to give my vote of approval from a drawing on a google earth without it being a survey and knowing where the property boundary is and know that we're not approving something that if they built it could be six inches over the line.

Angelina Holt: So, if I had a survey of my property line? I mean, we had a survey from like when we bought the house.

Doug Gilmore: An engineer will draw out on your property, the location of that fence to the, you know.

Angelina Holt: I think, I have it, I took it out.

Rick Miles: Have you had the property surveyed to show the pins for the

fence?

Angelina Holt: No, we haven't had it surveyed since we bought it.

Kevin Bailey: So, with that said, I would also say that with the new amended ordinance that we've changed, we try to correct the setbacks as much as possible, the problem in your situation is that the entire neighborhood's built, this way. I would not be leaning toward a vote of approval with the new ordinance as it's been amended but the entire neighborhood has been built.

Angelina Holt: I know it wouldn't be cohesive is I was the only one.

Kevin Bailey: It's kind of a conundrum.

Angelina Holt: That's what we're worried about, for resale if we ever resell, they're not going to want our house over a bigger backyard, privacy.

Casey Caples: I was kind of looking on Google Earth and I get what you're saying. You got 15 houses in there, doing this exact same thing. It's already there and I grant by the look of their fence. It's been there a long time. I see the city's point of view, they're backing it off the right a way a little bit, just in case for the future, you never know might go through there and a lot of times, those are full of utilities anyway. Nobody want to dig a hole but yeah I see the, I don't know. I guess, I'm a little torn myself.

Rick Miles: Mr. Chairman with circumstances as they lie, with how this subdivision has already gone a certain way, I will move that we grant the variance

Douglas Gilmore: Can that be seconded?

Casey Caples: Second.

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

Aye: 4 - Rick Miles;Casey Caples;Kevin Bailey and Max Dacus Jr.

[VR-24-26](#)

VARIANCE REQUEST: 1411 Southern Ridge Blvd.

Fisher Arnold is requesting a variance from the parking requirements including having the private driveway be less than 100' from nearest side lot line, accessory parking structures to be able to infringe on side yard setbacks, and the number of parking stalls to be reduced from zoning district requirements. The subject property is zoned PD-M, Mixed Use Planned Development.

Attachments: [VR-24-26 - Adjoining Property Owner Notification](#)
[VR-24-26 - Adjoining Property Owner Notifications \(Signed\)](#)
[VR-24-26 - Application \(Signed\)](#)
[VR-24-26 - Narrative Letter](#)
[VR-24-26 - Site Plan](#)

Doug Gilmore (Chair): Alright, Fisher Arnold, or Carol Caldwell.

Carol Caldwell (Proponent): So, Carol Caldwell, I got three issue, can you pull the site plan up? Okay, the plan was turned in about two years ago and that's when COVID hit. I think the plan was approved. I'm not sure, is that right Derrel?

Derrel Smith (City Planner): Yes, sir.

Carol Caldwell: Okay, so the plan was approved like this. Now, we're ready to move forward with the permit and the code says that if a lot is over 240 feet in width, your entrance has to be 100 feet from the property line. Our entrance right now is designed where you pull into the office and those squiggly line is where it's gated. So, you can turn left and it's a gated community. Turn right, and it's a gated community. So, we can stack are cars there, as people turn in,

we want to be able to stack. If we have to move this entrance, we would move it to the way you're looking at the screen while, the way I'm looking at it to the right. So our civil engineer redrew it and we can't make it work, where we would be stacking one car and the rest of them are going to be stacked on the street. Which you don't want to do and you can't stack cars on the street. So, we need to leave it there and also the gated part, the security part would be difficult to do, almost impossible to do. So, want to leave it there, like it was approved before. That's the first issue. Also, this is a 12-acre site, we own the property to the left, and to the property to the right, and we own the property on all 3 sides. We have mini storages on one side, another 12 acres of commercial. On this side, in phase two of the multifamily on this side. So, on the parking, we're approximately 36 short of what code says. However, our phase two, if you'll look down, you'll see this entrance down here hooking in the phase two and our additional parking for these 36 spaces will be there. So, those spaces will be picked up in phase two, which will start as soon as we're done with phase 1.

Board: Is that plan in reverse from what we're looking at?

Carol Caldwell: No, it's on the screen over there.

Board: Okay.

Carol Caldwell: Okay, and the third one is the garages. There's one building of 8 garages right here. That is 5 feet from the property line. We don't want to give up those garages because that's what makes it a first-class development or part of one. There's a 3 to 4 foot retaining wall there which makes it even more complicated for us. So, we're asking for a variance to be able to build that, because if not the hardship is we're going to have to just put regular parking spots in there and we just don't want to do that. We want to make it nicer, we want garages.

Board: Gonna have 3 of those garages?

Carol Caldwell: Yeah, there's eight garages in each one of those. Now some townhomes have garages attached to them. So we wanna leave that garage, we can't put it any other way, and we don't really want to make it a parking spot. I think you'd rather have it in a garage than in a parking spot. And there's nothing we can do about it.

Board: All the townhouses here have garages? This is for a second vehicle I assume?

Carol Caldwell: No, this is for a regular rental apartment. The whole 192 they all don't have garages, about half of them do. There's enough garages for about half of them. Enclosed Garages.

Kevin Bailey: So, Carol does the garage count, is it added to the parking space count?

Carol Caldwell: Yes, we have 421 spaces and the code requires 385 and we do that it's just they're drawn in phase two. We're looking at an overall project of all of it being built. So, phase two will have 36 more than it's required too.

Doug Gilmore: And the thought is as soon as this one is done, move on to the next. When phase 1 is done, you'll move right along to phase 2. Right then.

Best you can tell from here?

Carol Caldwell: Yes.

Kevin Bailey: Mr. Derrel how would we word in reference to item number two. How would we word that? Carol promises in 2 he's going to give us 36 more places?

Carol Caldwell: I can make a suggestion of that just put in the minutes that Phase 2 won't be approved until there's 36 additional parking spots.

Kevin Bailey: How about Phase 1 won't get a CO until Phase 2's complete?

Doug Gilmore: Y'all are smart enough to know how to do it.

Derrel Smith (City Planner): Can we grant the variance for a time period? Say two years, by the 2 years he goes straight into the construction. Parking spaces will be there so grant the 36 spaces for two years and then.

Carol Caldwell: We can do that.

Kevin Bailey: I'm just trying to figure out what's fair to put in the variance.

Carol Caldwell: That'd be fair.

Kevin Bailey: We already have a problem with the driver location staying where it is.

Derrel Smith: It's already approved and we had adopted the access management ordinance after this, because this was right during COVID, and we adopted the access management afterwards. So, I mean, we've already approved this once and we weren't looking at the spacing back then, like we do now and that's the reason.

Kevin Bailey: I'll take shot at it. Mr. Chair I move for the approval of the three variances with the stipulation of the second one that there's a 24 month timeline on the permitting of Phase 2 that shows the additional parking spaces.

Doug Gilmore: Carol you said that it was 36 that you're adding?

Carol Caldwell: Yes.

Kevin Bailey: Yes, with 36 to be added to Phase 2 in that timeline.

Rick Miles: Second

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

Aye: 4 - Rick Miles;Casey Caples;Kevin Bailey and Max Dacus Jr.

[VR-24-10](#)

VARIANCE REQUEST: 516 GEE

Troutt Law Firm is requesting a variance for a frontage reduction of 60% to 30%. This site is located in the commercial mixed-use district.

Attachments: [Signed Form](#)
[Variance Notification](#)
[516 Gee Street-LP-1](#)
[516 Gee Street-SP-1](#)
[Building Plan](#)
[Notifications](#)
[Old Site](#)
[516 GEE- CODE RESOLUTIONS](#)

Doug Gilmore (Chair): Alright the one we have been waiting for, for a long time. Need to un-table.

Rick Miles (Board): Mr. Chairman I move that we un-table this to move forward.

Casey Caples (Board): Second.

Doug Gilmore: Alright, everybody in agreement with that say 'Aye.'

Board (All): Aye

Doug Gilmore: Come on up, Mr. Troutt

Scott Troutt (Proponent): Yes, sir. How are y'all today?

Doug Gilmore: Good.

Scott Troutt: Good, since the last time that I was here, I had a pretty good opportunity to take a look over every single document that has come and gone with the City of Jonesboro. I think I have a pretty good handle on things as noted in the original petition. What we are asking for is a variance from the 60% requirement down to the 30% requirement and the reason why ultimately is

that we had an architect actually produce the plans. Everything was, the distances were very clearly denoted on those plans. It clearly said that it was 30 feet. Looking at the actual size of the lot, it's approximately 33% of the frontage that is less of course than the 60% that has been requested. My clients got a pretty long ways in this process before they heard anything one way or the other from the city. This building had been substantially completed whenever there was first any suggestion that there was going to be an issue with this frontage. At this point, we really can't go back on what's there. It's going to be hard to justify my clients spending potentially tens of thousands of dollars to try and comply with the requirement and frankly, the plan that I've seen for compliance with the 60% rule. It looks legitimately terrible. I mean, I know that's not necessarily a consideration for zoning adjustments for any decision but all it's going to do is create a blind spot from the road to the parking lot. That option wasn't going to work. However, I will say, otherwise we remain fully and very interested in coming to some kind of a compromise here because ultimately my client has a building that's been built. The report is that it lacks paint I believe and a little bit of interior work. A lot of money has been invested in this thing and it would just, I mean, there would be an equitable problem if we didn't come up with something at this.

Doug Gilmore: Mr. Troutt you may or may not know that there has been a lot of discussion with this board, the city, and your architect. Trying to have a resolution before you were called in, the city and the architect had thought to come up with a resolution but apparently the owners didn't necessarily agree with that. Is that how it's understood?

Scott Troutt: That is how it's understood.

Doug Gilmore: According to the drawing that was proposed to the city would add a wall with a walk through between the wall and the building and then have that front door added with an awning to make it look like an entrance which, it should have been there from the start, but yet here we are. So, what is the problem with doing that?

Scott Troutt: The problem with doing that is the additional cost and that it's entirely redundant. It doesn't change. It's compliance for the sake of compliance and nothing more. It just doesn't make a lot of practical sense. That was my client's objection to it. They remained a similar objection and I'm not entirely clear, I mean can a wall constitute frontage? That's another question in and of itself and I don't know the answer to that question. I don't think that the city code is entirely clear about it. I don't know that, that was ever an option to begin with. That's part of the problem. But as I noted earlier, fundamentally we have an issue of equity here. My client, and I know there has been conversations. My understanding is, there was an issue here back in February. Again, the building had been mostly completed by that point. But in any event, a stop work order wasn't actually issued. It appears all the way up until the prior board meeting here. So, that is a big part of the issue is just trying to you know, salvage the costs here and for that matter, trying not to do something that, just-

Doug Gilmore: I understand, your situation. They don't want to spend any more money and that's what it comes down to.

Scott Troutt: And that's not the case-

Doug Gilmore: Now well, let's talk about what do they want to do? Are they going to add a front to the building? Are they just going to leave it like it is?

Scott Troutt: Alright, as in adding a door there-

Doug Gilmore: No, not a door, a façade that looks like a door. That's what the city and the architect agreed to make it look as if it's a door.

Scott Troutt: As far as I know they're absolutely agreeable to that.

Doug Gilmore: That's a good place to start.

Scott Troutt: Okay.

Doug Gilmore: So the other problem is the wall. Are they just not agreeing to pay for that wall?

Scott Troutt: It is both, that and it is again that I don't know if it was a solution that-

Doug Gilmore: If it satisfies the city that the walls built, are they willing to pay for it?

Scott Troutt: My understanding is no.

Doug Gilmore: I'm trying to get to the meat of the matter. Now, what's been done about the utilities, the City Water and Light agreed to move those or does anybody know?

Derrel Smith (City Planner): We haven't heard anything, we asked but haven't seen any movement yet.

Doug Gilmore: I have the mayor's office over there, Tony you talk to City Water and Light about moving those? Come on up here please, Tony.

Tony Thomas (Chief Operating Officer): Yes, we will continue dialogue with City Water and Light in that regard as to what the desire of the city is in regards to the movement of utilities from the front of that facility to an area that's agreeable to both the city and the property.

Doug Gilmore: Well, the question is have they agreed to move them?

Tony Thomas: They have not that I am aware of at this particular point in time. Based upon our Thursday morning meetings but we're continuing to-

Doug Gilmore: Do you know what their reasoning is?

Tony Thomas: Based upon the information we've received from them, they actually go from the closest distance to their pole, that's the only rationale we've been given. That they make the connection from the closest distance to their source.

Doug Gilmore: So, I just had some underground utilities ran on my property from an independent contractor. I called I called the city and they told us where to put it. We put it there, they hooked it up, no charge. So, was there or was there not in a discussion from the first about we want this to be at a certain location or did City Water Light just choose or tell the city where to put the utilities? How does that work?

Derrel Smith: The location shown on the original plans was at the back of the building. That was what was shown on the plans. City Water and Light, apparently when their electrician called to set up the meter, City Water and Light told them they wanted it on the front.

Casey Caples (Board): Does it show on the east or the south?

Derrel Smith: It was shown on the east and that's where it was approved on the plans.

Casey Caple: Now it's on the west?

Derrel Smith: Correct.

Tony Thomas: Yeah, and the only rationale we've been given is the distance from the power source.

Casey Caples: I mean everybody like a shorter distance, it's always less money. I get that. Not always with appearance.

Tony Thomas: But we will continue to push the issue with City Water and Light in order to get the utilities relocated on that property.

Doug Gilmore: Thank you.

Kevin Bailey: Mr. Chair, so I don't feel like we are the governing body about the type of construction or how it's built. That's inspections from a drive-by appearance, the building wasn't built per the plans that were submitted by the city whether it's in the 30 percent frontage compliance or 60%. Even the

building that is there now has not been built as per the submitted plans. There's no garage on the end, there's no dumpster enclosures, there's no walls wither side. So, while I don't feel like we should be into the governing of the particulars about it, I believe we are here to pass or not pass a frontage reduction for 60% to 30% is all we're here to hear today. And with that said, that all I feel like we should be discussing.

Doug Gilmore: Well, you know you deal with something for as long as ladies carry babies, you kind of take a little ownership.

Kevin Bailey: I get it, I drive by the building every day my office is a half mile from there.

Doug Gilmore: Me too.

Scott Troutt: I'm sorry, I don't know if this is out of turn but I was going to offer a quick suggestion here. You had mentioned that it wasn't built in line with the plans. I just want to be clear. This plan-

Kevin Bailey: That's the sidelines Scott, building elevation plans call for a garage on the back end with an overhead door. It's not there.

Scott Troutt: I do see that, the garage with the overhead. I didn't see, but we're not talking about, I know there was a subsequent plan that was submitted for the wall, but we're not talking about that, we're talking about the wall portion.

Kevin Bailey: There's some walls on the original plan that are not there as well.

Scott Troutt: I got you.

Kevin Bailey: Anyway I don't want the BZA to be arguing about the build of the project, we're just here to vote on the 60% to 30% variance.

Scott Troutt: I can understand that. Absolutely, I actually spoke with the general contractor and I did want to propose a solution for whatever it's worth with regard to the service intake. My client's completely fine with building a safe enclosure that would go along with the building itself and kind of cover that. I know that, that admittedly does look a little off. Having it just hanging out like that. It reminds me of when they used to have services, back when I was a kid.

Doug Gilmore: So, it's been brought to my knowledge that the architect would help endure the cost of that added wall in the front of the building. To add the width the city is asking for. You know, if there's a resolution to get it to sixty, that's what I'm going for. But you understand Mr. Troutt that the front of that building and at this time looks nowhere near what a door is supposed to look like.

Scott Troutt: Yes, I've been over there, it does in fact just have, it's a window, for all intents and purposes. And I don't think that anything cosmetic like that, it won't be a major issue with that type of cosmetic thing. If you were talking masonry and all that, that'd be different. I have not discussed it with my client whether or not that would be, I struggled to find a reason why that would be an issue. But I'd have to talk to my clients.

Doug Gilmore: Questions from the group?

Kevin Bailey: The city is open to communications with the developer as to trying to find a resolution without granting this variance to my understanding? Is that correct Derrel?

Derrel Smith: Yes.

Casey Caples: Let me ask this question, I'm gonna break it down. It's kind of simple for myself. Let's say it wasn't Bill. Drawings came to the city, you had to come get a variance because you're reducing from 60 or you're wanting to go to 33 percent frontage. How would the city have felt about the difference in the 60% coverage? I guess, I was trying to look at it as if it wasn't there. The hard part is it is there. So, I feel like this board, kinda like Kevin was going down, we need to look at just the 60% that variance alone on its own, the meters, City

Water Light stuff, you do it one way, you probably should have done it that way. Or at least attempted to. Is my feelings on that. You know, anything you broke or did differently that you didn't submit and get approved. That's a risk we all take right? I'm just kind of wondering how the board feels about just a reduction. If they just came in for variance and the building wasn't built now. Is how I would look at it.

Doug Gilmore: Scott step aside a minute. I'm going to ask if anyone is here to speak for or against this?

Kevin Bailey: So, before you speak, I would ask again that we talk about just the variance.

Patty Lak (Opposed): Yes, sir.

Kevin Bailey: That we not talk about the construction because that's not what we're here to hear. Okay?

Patti Lak (Public): Okay, Patti Lak, 4801 Forest Hill Road. First I wanna say that this has been tabled since March on that and so, even though Kevin was saying that, this has been a huge mistake, it never should have ever happened in the first place and so we've had these meetings over and over again talking about this one variance of 60 versus 30. But that's not the only one that this building has a problem with. You know, it has a problem with a door, whether it's a door, or looks like a door. We don't have a door. We don't have, the meters are on the side. The meters should have never been on this side of the road. The sidewalks, the parking there's a lot of variances to this, so even if you guys are being on the spot right now to grant this, that building still does not meet all the codes that are supposed to be on that. Someone messed up. You know, and let's just face it. The plans were given to the planning department. They should have never been approved because we know what was in existence and we can't change something that has not just one but has 5 different variances. So, no one's being accountable and you guys are the ones that are going to have to take the fall for it. But it's not.

Kevin Bailey: No, ma'am we are not going to take the fault.

Patti Lak: Not the fault for it, but you guys are the ones, all eyes are on you right now.

Doug Gilmore: Well, we appreciate that Patti, we didn't feel that earlier.

Patti Lak: So, I ask you guys that, this is not really your issue. This is really the city's issue.

Doug Gilmore: That's exactly what I was going to say. All the things that you have talked about have been addressed. There's only one person that can fix the issues that as they became apparent, or I guess, it's all the people that work for the mayor. They work for the city.

Patti Lak: Correct.

Doug Gilmore: There's only one person who is charge of the city and that's the Mayor. He's in charge of taking care of, to make sure this doesn't happen again. All eyes look to Harold rather, than this group of guys right here that picked up this problem unexpectedly. Now, we don't like it any better than you do. We don't like any of the code problems, any better than you do. But we're trying our best to make this happen and we don't need to reiterate over and over again. What we all know is apparent and the apparent lack of either interest in the property, they didn't care, it's just on Gee Street, whatever the attitude was. Somebody didn't pay attention. In Derrel's office, in engineering, in code, nobody, let's just say this, didn't give a crap it seems. From a West ender which I am. So we're not going to reiterate that now. We've done that. So we're going to face the issues that's in front of us. And all we can do is move forward. There's not going to be any bloodletting today. Nobody's gonna be held off in handcuffs. It's our mayor's job to take care of his departments.

Patti Lak: Well, I agree and-

Doug Gilmore: And I trust Harold Copenhaver to do that.

Patti Lak: Well, I do too and I just hope that you guys, because there has been mistakes before already in our city and I have to tell you is that was the building that's out towards me. You know that big shed got built without anybody looking at what was going on. The same thing happened here. No one was paying attention that was going on. SO, this is not the first time that it's happened. It's the second time. So, I don't think you guys are the ones that are to be the ones to decide this today. Thank you.

Scott Troutt: From what I can tell, oddly enough, Arkansas law sits out, MAPC's, Boards of Zoning Adjustment in particular, as being effectively appellate bodies. So, what I am curious about is whenever we requested a variance we ultimately, one would normally have to do that off of an administrative decision from the city at least from how state law is written, and I'm kind of curious, I don't know that the city actually did anything prior to it coming for variance. Did they? As in the city didn't issue a stop work order itself? That at least the paper that we got said it was from the BZA proper right? Am I correct on that?

Doug Gilmore: That's correct.

Scott Troutt: I mean, in which case, in the absence of an actual act by the city that does simplify matters quite a bit, because we would have effectively been appealing from nothing. We can, in essence, dismiss the-

Doug Gilmore: You can appeal our decision to an appellate court.

Scott Troutt: No, absolutely. What I'm saying is under the state statute, it provides the BZA as an appellate body from any administrative action done by the city.

Doug Gilmore: That's what we do.

Scott Troutt: Right, absolutely.

Doug Gilmore: Every month.

Scott Troutt: Right, what I'm trying to bring up is I don't know that we were actually appealing off of any sort of adverse action. So, it could very well be that we are just in front of the board at the wrong time. That is possible.

Doug Gilmore: This building has been at the wrong place, at the wrong time for the last several months.

Scott Troutt: I totally understand, I really do.

Doug Gilmore: The architect did, I think he was originally the one that asked for the variance.

Scott Troutt: I believe he was.

Doug Gilmore: So we got it in a legitimate way. So now, we're just trying to figure out what the next step is. And in order to do that we're trying to get either you or the architect, the owner to negotiate a resolution to the issue or. We won't, I mean we can't these guys up here, are not going to take the fault. I mean, this is not what we're here for. No, but you, see the problems. We all know the problems. They're ever before us, somebody needs to get a situation in hand and have a resolution which I thought we had but apparently, we didn't. And it takes the guy with the money writing the checks to agree to whatever this resolution is.

Scott Troutt: And admittedly there is a as noted, I did not expect the thing regarding the architect paying for it. So, it could very well be that would change, whenever I make a phone call promptly after this. I don't know. The only reason I'm mentioning that is it may be a relief valve of sorts. To go ahead and let the city do whatever it needs to do. Which may not have been happening. Admittedly but at the same time, the procedure is a little strange here.

Doug Gilmore: I really don't know where you're going with all that, but I can, let me ask you one more time to step aside. Anyone else who would like to speak toward the issue come one up, just the variance of 60 to 30.

Catherine Norville (Public): Hi, I'm Catherine Norville, I live at 636 West Strawn and I work at 920 Gee Street. Since I do live and work in the West End, these codes are important to me and I would urge you not to vote on this until a resolution is made bringing this building in line with all the codes. On this or an agreement is done with it. I feel like this is opening a door to where it's going to be easier to ask for forgiveness rather than permission. Going down the road and as someone who has to live and work in that neighborhood, this matters to me. I also wanted to bring up this was not listed on the May 14th paper announcement for the agenda. This item was not on there.

Doug Gilmore: That's duly noted, and we'll make sure that doesn't happen again.

Catherine Norville: Thank you.

Jeff Spencer (Public): Good afternoon, I'm Jeff Spencer I live at 701 Floyd. I appreciate the opportunity to come up here and speak with you guys. You got a tough job, I know from experience and we really appreciate what you do. I'd also like to, I have not met the Parnells, the owners of the project but we really appreciate them investing in Gee Street. What was there was an ancient old house that was about to collapse and they definitely improved that lot. And I'm investing about 5 projects on Gee Street, one on Nettleton Circle. I live a couple of blocks from Gee Street, so, I'm very interested in what happens there naturally and obviously. I'm not here to urge you to vote either way on that variance of the 60 to 30%. But I think that it's important to understand why that's important. Why it's there to start with 52 years ago, I went to work in construction. I've pretty much been at it ever since and I generally don't always agree with builders and developers but I do see that side of it. How difficult it is to get projects done and have to comply with everything. But we have a new code downtown and it's not full of suggestions, it's full of law. Major difference is that it's a form-based code where most of the cities in the country are accustomed to use base codes. You can't build a five-plex in Ridge Point and use it as a five-plex. But if you accidentally did, you could easily fix that. You stop the use. But the form base code is a lot different, buildings that people tend to gravitate toward. They like them in particular because of their particular forms and that usually is expressed through traditional architecture. And not everybody is a huge fan of traditional architecture. But it's hard to find people that just don't like it. They're drawn to the right proportion and scale. Our best example is that little bank there, on the corner behind the courthouse. You could put the ruler to that and you'd find that if that building were a person, the parts of the building would be split up about like a person is. So, the form-based code looks at our city and says where they already exist, we want to try and keep it. And they say where it doesn't exist or where we want to make it even more human scaled. We make these changes. For example we got two streets that connect downtown to Gee Street. Most all the West End looks exactly the same. Built under the same zoning and codes. But they've said these two streets we want to make them even more pedestrian oriented. So on Jefferson and Huntington, you can come up to within 10 feet of the street. We're closing up the street, making a room out of it. It becomes sheltered and cozy and comfortable to be on. Those two streets, you have to fill up 50% of the lot rather than 30 for the rest of the residential areas for example. So, they're transforming that but they can't do it as they build it's done as you rebuild. So, we're talking a century-long project. And if it were new and we made a mistake like we've made here, you say we caught it, we don't do that

again. But to fix this mistake we have to wait for that building to age out. A building like that's gonna last. It could last hundreds of years if we wouldn't tear stuff down. But most of the buildings on Gee Street are modern architecture and that building fits Gee Street perfectly in my opinion. It's modern, it's neat, and I would say the architect, he's done incredible things in our area. He's probably done more single-family homes than just about everybody I know. Stuff that other people wouldn't touch and he's overspent on them and he's really done a good contribution to our neighborhood. So, I'm very disappointed to see that building didn't front the street and that it didn't fill up that 60 percent. If those other two streets are being transformed into a more pedestrian-oriented street, Gee Street is also being transformed. It's commercial mixed use. Well, it's not mixed use now. It's commercial. Well, what is the use they want to mix in? It would be residential. So, Gee Street becomes a street that you can live and work on. Well, people don't like to live on streets that are full of gaps particularly in a commercial area. So, that's the reason you want more coverage on Gee Street because it's commercial mixed use. So, yes, that building fits what Gee already is in many ways. A bunch of parking lots with buildings that are there and every building on Gee is not going to be able to be redeveloped exactly like you'd like where you fill up 60%, you get the parking either in the rear or have some kind of on street parking or collected parking, parking somewhere like that. But overtime, building by building is how that happens. So, my concern and I have to admit a lot of people say why is this such a big deal? Well, it's a big deal for the reasons I just mentioned. It's a long, long-term thing. You can't fix it overnight. The form is just as important as the use. And we've had several new projects and to be honest we've not really hit the form on any of them yet. And there's just a point where you gotta put your foot down. There's a story that always comes to my mind about a teacher who couldn't handle her students and one day she asked the kids, why don't you guys act like Miss Brown's class? And they said, Miss Brown won't put up with it. Well, I guess what I'm saying in the West End, we're tired of codes not being followed because they do have the force of law and in the long run, if people understand the form-based code, you're gonna build stuff that's extremely valuable. You're going to build in the beauty and you're gonna build in the scale and you're going to build places where people like to be on their feet. And I could support it with lots of data but anybody can do their own research. Places that get this thing right are a lot. And in some cases the most valuable real estate in the city. Besides the fact that you halt that business of going in and wiping out our original housing stock. And then just building basically boxes with lids on the m. People get in, they're happy at first. Everything is new. They can't see out, their buildings are nondescript. It's all parking everywhere. And we can do better than that and that code keeps the downtown are from becoming that kind of place. And thank you very much.

Doug Gilmore: Thank you for your passion and all the information you have given us. For sure. Questions? Anyone else would like to speak?

Jeff Spencer: Doug can I add one thing? A thought that just keeps coming into my head is, I don't see why you couldn't figure out some way for the city to help pay, to get that street wall and the idea behind the street wall is a way to make the building look extended. Honestly it outta come to the corner and have a door through there but you, if the thing got approved, shouldn't have and I know as I said right from the start, if I get permission to build something, I'm going to expect to build it. So, I don't know how you'd find the funds but at some point, you know, the bucks gotta stop somewhere. Thank you.

Jeff Ranson (Public): Jeff Ranson, 1224 West Matthews Avenue. Mr. Bailey is correct, the issue at hand is for y'all to approve or disapprove this amendment.

By not doing though, I think you're setting the city up for a possibility of a lawsuit. And I know the city doesn't want that. But maybe that's exactly what the city needs, the city needs to start being responsible for the actions of its departments. So, if the Mayor has to dull out money because his departments are not following its own codes, then maybe that's what needs to happen for things to change and thing to be done. Correctly in this city. Thank you.

Kevin Bailey: Mr. Chair I motion that we put the variance for the 60 to 30% on the floor for a vote.

Rick Miles: Second.

Doug Gilmore: To drive this point, there is no variance, so I would suggest negotiations you need to come up and talk some more come on, but that's where we're at today.

A motion was made by Kevin Bailey, seconded by Rick Miles, that this matter be Approved . The motion FAILED with the following vote.

Nay: 4 - Rick Miles;Casey Caples;Kevin Bailey and Max Dacus Jr.

5. Staff Comments

6. Adjournment