

**CITY OF FRANKLIN
BOARD OF ZONING APPEALS
Meeting Minutes
January 5, 2023**

Commissioners Present:

Greg Caesar
Jeff Fleishour
Jonathan Langley, Chair
Absent: William Scales
and Lee Reeves

Staff Present:

Amy Diaz-Barriga
Ariella Stanford
Bill Squires

CALL TO ORDER

Chair Langley called the meeting to order at 6:01 p.m. with a roll call of the Commissioners present.

1. APPROVAL OF MINUTES

Consideration of Approval of the December 1, 2022, Meeting Minutes.

Commissioner Greg Caesar moved to approve the meeting minutes from the December 1, 2022, BZA meeting. Commissioner Jeff Fleishour seconded the motion.

Vote Tally: 3-0

Motion passes

2. ELECTION OF CHAIR AND VICE CHAIR:

Commissioner Fleishour nominated Jonathon Langley for Chair. Chair Langley accepted the nomination.

Vote Tally: 3-0.

Commissioner Fleishour nominated Greg Caesar for Vice-Chair. Commissioner Caesar accepted the nomination.

Vote Tally: 3-0

ANNOUNCEMENTS

Ms. Diaz-Barriga stated there were no announcements.

3. Variance Request To Allow Parking Within A Landscape Frontage Area, For the Property Located At 701 Cool Springs Boulevard (FZO §7.5).

Staff Report: Ariella Stanford. Ms. Stanford stated that the subject property is located at 701 Cool Springs boulevard and is zoned RC-12 Regional Commerce 12 District. The applicant is proposing a retail building along Carothers Parkway. The proposed building has a Landscape Frontage type, which requires parking to be behind or to the side of the building facade. There is currently an existing surface parking lot that will service the proposed building. The existing parking lot is located to the side of the proposed retail building, and it is approximately 8 feet closer to the property line than the front facade of the proposed building. The applicant is requesting to allow parking to encroach into a landscape frontage area for the proposed principal building location.

Ms. Stanford explained that the BZA may authorize a variance only when the request has met all three

criteria in accordance with F.Z.O §20.10.6 and State law. The staff has completed an analysis of the request considering these criteria:

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the Zoning Ordinance or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or conditions, such a piece of property is not able to accommodate development as required under this Ordinance.

The parking lot already exists on the site with multiple restrictions that prevent the proposed building from being 8 feet closer to the street, thereby negating the need for this request. There are multiple utility easements that are preventing the building from being closer to the property line than the parking lot. The Mallory Valley Utility Easement also has an existing utility water backflow system that is preventing the sidewalk access to the building from being any closer to the lot line. Because the existing conditions of the site are preventing development and access to the building from being any closer to the front lot line, Staff finds this requirement is met.

2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties for or exceptional or undue hardship for the owner of the property.

Staff finds that the application of a provision enacted under the Zoning Ordinance would result in undue hardship upon the owner of the property. According to the Zoning Ordinance, the building is required to front Carothers Parkway, and is required to have a sidewalk with a width of 8' for access to the front of the building. The existing utility backflow system is preventing the sidewalk and building from being any closer to the lot line. Therefore, staff find that this criterion is met.

3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance.

Staff finds that this proposed plan would not cause substantial detriment to the public good. Staff also find that it would not impair the intent of the Zoning Ordinance. Because this proposal complies with the Zoning Ordinance in fronting Carothers Parkway and having sidewalk access to the front of the building, as well as trying to place the building as far forward as possible, it is evident that this proposal is deviating from the Zoning Ordinance in the smallest margin possible. This shows their effort to meet the intent of the Zoning Ordinance. Staff finds that this criterion is met.

RECOMMENDED MOTION: Ms. Stanford stated that the staff recommends the Board of Zoning Appeals move to approve the variance request to allow parking within a landscape frontage area, for the property located at 701 Cool Springs Boulevard, because the criteria for granting a variance have been met.

APPLICANT PRESENTATION: Eric Parl, applicant. Mr. Parl stated that he did not have anything to add to the staff presentation but would be happy to answer any questions.

Chair Langley asked if there were any citizens who would like to comment on the Variance Request (701 Cool Spring Boulevard), there were none.

Commissioner Fleishour motioned to close the public comment, seconded by Commissioner Caesar.

Vote Tally: 3-0

Motion passes

Chair Langley asked if the Board had any questions for the staff or applicant.

Commissioner Caesar asked the applicant if the goal was to maintain the existing parking instead of redesigning the parking area.

Mr. Parl confirmed that Commissioner Caesar was correct.

Commissioner Caesar moved to approve the variance request for the property located at 701 Cool Springs Boulevard because the criteria for granting a variance have been met, seconded by Commissioner Fleishour.

Vote Tally: 3-0

Motion passes

4. Variance Request To Allow An Encroachment With A Maximum Of 7 Feet Into A Side Yard Setback, For The Property Located At 1108 Harpeth Industrial Court (FZO §3.21.5).

Staff Report: Ariella Stanford. Ms. Stanford stated that the subject property is located at 1108 Harpeth Industrial Court. It is zoned Light Industrial (LI) District, and it is located within the Central Franklin Overlay (CFO). The property is currently occupied by Five Daughters Bakery, and they are requesting an encroachment with a maximum of 7 feet into the side yard setback. The new addition to the building, which is a walk-in cooler that services the bakery, encroaches 7 feet into the required 10 feet setback. This encroachment is a little over 3 feet from the side property line. Part of the original building, which was built in 1973, also encroaches into the side yard setback.

Ms. Stanford explained that with this request, there is a specific timeline of events to be aware of, which led the applicant to request this variance.

April 20th, 2021: 1st Submission in IDT and Building Permit Application Processed

August 26th, 2021: Submission accepted for review September 10th, 2021: Conditional Letter of Approval from BNS

February 18th, 2022: Building Permit Issued

March 11, 2022: Footing Inspection

March 30, 2022: Foundation Inspection

End of July, 2022: Temporary Certificate of Use and Occupancy is issued

September 27th, 2022: Resubmittal of plans

September 28th, 2022: Submittal declined due to lack of cover letter

October 17th, 2022: Resubmittal of plans

October 19th, 2022: Review declined

Ms. Stanford stated that the BZA may authorize a variance only when the request has met all three criteria in accordance with F.Z.O §20.10.6 and State law. The staff has completed an analysis of the request in light of these criteria:

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the Zoning Ordinance or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition, such a piece of property is not able to accommodate development as required under this Ordinance.

The shape and size of this lot are unique in nature. The lot is very narrow, and it gets gradually narrower from the back of the lot to the front. As seen from the encroachment into the side yard with the original building footprint, the original building would not comply with the current Zoning Ordinance if it were built today,

because of the narrowness and unique shape of the lot. With the front facade of the building being oriented parallel to Harpeth Industrial court to comply with the Zoning Ordinance, the lot line to the left of the building slants towards the building, creating a slanted and strangely narrow lot restriction to the left of the building. Staff finds this requirement met.

2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties for or exceptional or undue hardship for the owner of the property.

Seeing as the addition was granted a Building Permit, and passed multiple inspections from the City of Franklin, having to come into compliance with the Zoning Ordinance at this point would result in undue hardship upon the owner of the property. The property owner was under the impression that their addition was not an issue, so their bakery business is now dependent on this addition, which is a walk-in cooler. Staff finds that this criterion is met.

3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance.

Staff finds that this proposed plan would not cause substantial detriment to the public good. Staff also find that it would not impair the intent of the Zoning Ordinance. The intent of the Zoning Ordinance in this case is to maintain a buffer between buildings and their side lot line that is consistent along a street or within a neighborhood. Because of the strange shape of the lot, the addition that is encroaching into the setback is not much closer to the lot line than the original building, and visibility of the encroachment is very limited. Staff finds that this criterion is met.

RECOMMENDED MOTION: Ms. Stanford stated that staff recommends the Board of Zoning appeals move to approve the variance request to allow an encroachment with a maximum of 7 feet into a side yard setback, for the property located at 1108 Harpeth Industrial Court, because the criteria for granting a variance have been met.

Applicant Presentation: Isaac Meek, representing Five Daughters Bakery. Mr. Meek stated that the only information he would like to add is a letter in full support of the variance request from the neighbor that the variance would affect.

Chair Langley confirmed that the Board and staff did receive the letter from the neighboring business.

Chair Langley asked if there were any citizens who would like to comment on the Variance Request (1108 Harpeth Industrial Court), there were none.

Commissioner Caesar motioned to close the public comment, seconded by Commissioner Fleishour.

Vote Tally: 3-0

Motion passes

Chair Langley asked if the Board had any questions for the staff or applicant.

Commissioner Caesar asked Mr. Meek if the lighter colored structure in the photograph would be considered the area of new construction.

Mr. Meek stated "yes."

Chair Langley followed up with a related question about the cinder blocks and what represents the new vs. old construction in the photos provided by the applicant.

Mr. Meek stated that the part that's unpainted is the new area.

Commissioner Fleishour asked about the walk-in cooler.

Mr. Meek explained that it was actually an addition that was converted into an internal walk-in cooler. The walk-in cooler is a part of the building.

Chair Langley asked the staff if this area was part of the original plans needed for building permits.

Ms. Diaz-Barriga stated that the process of inspection is beginning now.

Mr. Meek stated that the area was not included in the original plans that were submitted in August. The contractor made a mistake but corrected the plan, including the area under discussion, and was resubmitted in November. Five Daughters received a permit in February which Mr. Meek believed was for the correct resubmitted plan but the permit was actually for the plan submitted originally in August. For some reason, the resubmitted plan (correct plan) was not approved or didn't make it through the steps of the approval process. When the city came out for the inspection, they began operating off the plans submitted in August.

Commissioner Fleishour stated/asked for confirmation if the city inspectors did not realize that the addition was not on the approved drawings.

Mr. Meek confirmed that this is correct.

Chair Langley stated that if there were no additional questions, he would entertain a motion.

Commissioner Fleishour motioned to approve the variance request to allow an encroachment with a maximum 7 feet into the side yard setback for the property located at 1108 Harpeth Industrial Court because the criteria for granting a variance have been met, seconded by Commissioner Caesar.

Commissioner Caesar noted the frustration of Mr. Meek and Five Daughters Bakery and apologized for the unfortunate situation created by human error.

Chair Langley stated that he agrees with the staff analysis and recommendation because of the exceptional condition and shape of the property.

Chair Langley stated that we have a motion for approval and a second.

Vote Tally: 3-0.

Motion passes

5. **Variance Request To Allow Parking Within The Riverside Drive Frontage Area For A Proposed Principal Building, and a Variance Request To Allow Parking Within The Oak Meadow Drive Frontage Area For A Proposed Principal Building, and a Variance Request To Increase The Maximum Front Yard Setback from 30 Feet to 150 Feet, For The Property Located At 880 Oak Meadow Drive. (FZO §7.5 and §3.18.5).**

Staff Report: Ariella Stanford. Ms. Stanford stated that This 13.3-acre lot is located at 880 Oak Meadow Drive,

and is zoned RC-6 Regional Commerce District. The owner wishes to develop the parcel with a two-story, 100,000 square feet retail space. There is no site plan submitted for this project. The plans provided for this property represent the desired design of the site.

The applicant is requesting three variances:

1. To allow parking within the Riverside Drive frontage area
2. To allow parking within the Oak Meadow Drive frontage area
3. To increase the maximum front yard setback from 30 feet to 150 feet

UPDATED INFORMATION AFTER DEFERRAL

Since this item was deferred at the December BZA Meeting, staff has collected very limited new information regarding the site. After a meeting with the City of Franklin's Planning, Fire, and Engineering Departments for a thorough discussion of the site with the applicant, staff came to the same conclusion that with changes to the layout, the proposal could come closer to compliance with the Zoning Ordinance than the proposed plan. Lance Fittro of the City of Franklin Engineering Department drafted a Staff Suggested Site Layout which has been submitted as an exhibit with this request. This exhibit shows a plausible layout that would come closer to compliance with our Zoning Ordinance than the proposed plan for 880 Oak Meadow Drive.

The pressing obstacles that still remain are the stormwater area along Oak Meadow Drive, and the 40-foot utility easement along Riverside Drive.

Staff Analysis- Request 1: To allow parking within the Riverside Drive frontage area

1. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the Zoning Ordinance or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition, such a piece of property is not able to accommodate development as required under this Ordinance.

Since the item was deferred in December, discussion and analysis have shown that it is completely possible to provide the necessary parking with parallel parking in the frontage and/or necessary parking to the side or behind the building, which would be in compliance with the Zoning Ordinance. The necessary ADA Parking can be provided as parallel parking, as shown in the Staff Suggested Site Layout exhibit. There is not an exceptional situation with the site itself that prevents compliance with the Zoning Ordinance in this situation. Staff still consider this request a matter of preference, and that the "hardship" is self-imposed in this situation. Staff finds this criterion is not met.

2. The strict application of any provision enacted under the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property.

As stated with the previous criteria, discussion and analysis have shown that it is completely possible to provide the necessary parking with parallel parking in the frontage and/or necessary parking to the side or behind the building, which would be in compliance with the Zoning Ordinance. This is shown in the Staff Suggested Site Layout exhibit. There is not a provision enacted under the Zoning Ordinance that would result in undue hardship upon the owner of the property in this case. Staff still consider this request a matter of preference, and that the "hardship" is self-imposed in this situation. Staff finds this criterion is not met.

3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of the Zoning Ordinance.

With the same rationale as was given at last month's meeting, the design of this site would not be a detriment to the public good, but it would impair the intent of the Zoning Ordinance. Staff finds this criterion is not met.

Staff recommends that the Board of Zoning Appeals move to deny request #1.

Staff Analysis- Request 2: To allow parking within the Oak Meadow Drive frontage area. Staff will not read the full criteria moving forward, only provide analysis of each.

Criteria 1. Since the item was deferred in December, discussion and analysis have shown that it is completely possible to provide the necessary parking with parallel parking in the frontage and/or necessary parking to the side or behind the building, which would be in compliance with the Zoning Ordinance. This is shown in the Staff Suggested Site Layout exhibit. There is not an exceptional situation with the site itself that prevents compliance with the Zoning Ordinance in this situation. Staff still consider this request a matter of preference, and that the "hardship" is self-imposed in this situation. Staff finds this criterion is not met.

Criteria 2. As stated with the previous criteria, discussion and analysis have shown that it is completely possible to provide the necessary parking with parallel parking in the frontage and/or necessary parking to the side or behind the building, which would be in compliance with the Zoning Ordinance. This is shown in the Staff Suggested Site Layout exhibit. There is not a provision enacted under the Zoning Ordinance that would result in undue hardship upon the owner of the property in this case. Staff still consider this request a matter of preference, and that the "hardship" is self-imposed in this situation. Staff finds this criterion is not met.

Criteria 3. With the same rationale as was given at last month's meeting, the design of this site would not be a detriment to the public good, but it would impair the intent of the Zoning Ordinance. Staff finds this criterion is not met.

Staff recommends that the Board of Zoning Appeals move to deny request #2.

Staff Analysis- Request 3: To increase the maximum front yard setback from 30 feet to 150 feet
As a reminder this request to both Riverside Drive and Oak Meadow Drive. Unless the motion clarifies it, the motion would apply to both streets.

Criteria 1. With the same rationale as was given at last month's meeting, the setback along Riverside Drive would have to be a minimum of 40' because of the Public Utility and Drainage Easement. The stormwater conditions will impact the setback requirements along Oak Meadow Drive. Staff find this requirement is met.

Criteria 2. Similarly, to the previous criteria, the setback along Riverside Drive cannot comply with the Zoning Ordinance, as it would have to be a minimum of 40' because of the Public Utility and Drainage Easement. And again, the stormwater conditions will impact the setback requirements along Oak Meadow Drive and will likely not allow compliance with the Zoning Ordinance regarding that setback. However, Staff cannot determine the exact amount that would be needed for that setback without further information and analysis. Staff find this requirement is met.

Criteria 3. With the same rationale as was given at last month's meeting, the design of this site would not be a detriment to the public good, but it would impair the intent of the Zoning Ordinance. As shown by the Staff Suggested Site Layout exhibit, the site layout can easily come closer to compliance with the Zoning Ordinance. For this reason, this proposal does not meet the intent of the Zoning Ordinance. Staff finds this criterion is not

met.

Staff recommends the Board of Zoning Appeals move to defer request #3 because the criteria for granting the variance of 150' was not supported by sufficient evidence.

RECOMMENDED MOTION: Staff recommends the Board of Zoning appeals move to deny the Variance Request To Allow Parking Within The Riverside Drive Frontage Area For A Proposed Principal Building, and deny a Variance Request To Allow Parking Within The Oak Meadow Drive Frontage Area For A Proposed Principal Building, and defer a Variance Request To Increase The Maximum Front Yard Setback from 30 Feet to 150 Feet, For The Property Located At 880 Oak Meadow Drive because the criteria for granting a variance were not supported by sufficient evidence. Without more information on the stormwater management needs of the site along Oak Meadow Drive, Staff cannot determine the setback needs along Oak Meadow Drive.

Applicant Presentation: Jeff Rosiak. Mr. Rosiak stated that he will explain the changes since the deferral at the December meeting. Mr. Rosiak stated that the zoning ordinances provide excellent guidance in most situations. In this situation, the existing site geometry, existing site topography, existing overhead electrical transmission lines and the site location at the corner of Oak Meadow and Riverside Drive, strict adherence to the zoning ordinance is not possible. The frontage requirements and the existing contextual pattern of development are at odds with each other. The site requires a creative solution that deviates from the code. Because any proposed development is required to front a public street and the building orientation is required to parallel the street, the location of the front door becomes a critical early design decision. In this case, the low point of the site is along Oak Meadow Drive. This is where the stormwater area will be located, which requires the front door to be located along Riverside Drive. The 3 to 1 slope were discussed along the eastern and western property lines including Riverside Drive and the electrical transmission lines along Riverside Drive. Even though the door fronts Riverside Drive, the conditions of the site force the building away from Riverside Drive. Since the December deferral meeting, GDC has provided a concept sketch illustrating how the building could front Riverside Drive. At the existing grade of Riverside Drive the illustration shows how the maximum allowable slopes that still allow for emergency access and ADA access push the building frontage well beyond the permitted setback zone. Mr. Rosiak stated that it is understood that the intent of the code is to provide a walkable, pedestrian friendly environment. A pedestrian friendly zone between the parking area and the building has been incorporated into the plan. The conditions of the site along with the incorporation of the pedestrian friendly zone push the setback to a max of 150 feet. There is some flexibility in the site design under the MTE electrical line that would allow room to shorten the setback. The setback along Oak Meadow is labeled as a max setback of 120 feet. Also, since the December deferral meeting, the planning and engineering staff have generated a concept that shows how the building can be pushed closer to Riverside Drive and how parallel parking can be accommodated. GDC believes that this concept makes the hardships unique to the site evident. For the concept to work, the access drive to the front door of the building has been removed entirely. Instead, the primary entrance is 400 feet further to the north along the northern property line. Parking is similarly separated from the front door of the building. These factors combine in a way that removes the viable use as contemplated in the C6 zoning. In either case, most of the parking is located remotely from the front door which is why the variance requests (#1 & #2) became necessary. Variance request 1 & 2 request head in parking with proximity to the front door along Riverside Drive and Oak Meadow frontages keeping in mind the parking areas are elevated 12 feet from the existing surrounding street network. Mr. Rosiak noted that the site is surrounded by existing development and granting the requested variances would allow the site to be developed in a pattern like the existing development pattern. Mr. Rosiak referred to an ariel illustration in the application packet that references the pattern of the surrounding development in the area. Mr. Rosiak stated that the buildings are pushed back from the street and make use of head in parking, therefore establishing a clear pattern of development. Mr. Rosiak stated that he would be happy to answer any questions from the staff or Board.

Chair Langley asked if there were any citizens who would like to comment on the Variance Request (Riverside Drive and Oak Meadow Drive), there were none.

Commissioner Fleishour motioned to close the public comment, seconded by Commissioner Caesar.

Vote Tally: 3-0

Motion passes

Chair Langley asked for additional comments regarding the variance requests from staff.

Ms. Diaz-Barriga stated that the purpose of this meeting is to interpret the code and to determine if the criteria for the variance request has been met. Ms. Diaz-Barriga explained that a site plan has not been submitted and to a degree we are speaking in hypothetical terms. Without a site-plan submittal, a solution is difficult to find. Staff met and came up with an alternative plan and found a way to provide parking in front of the building in a way that meets the zoning ordinance. It allows for fire access around the building in the form of an internal drive. The two drive isles would be 11 feet in width, which is acceptable for a fire truck to use. Parallel parking on one or both sides of the drive isle and parallel parking in front of the building for ADA accessibility, if needed. Parking under utility lines has been approved in the past. The alternative plan, created by staff, could be supported by the BZA to allow the setback to be extended.

Commissioner Caesar expressed concerns about the fire access and the parking under the electrical transmission lines.

Ms. Diaz-Barriga stated that the engineering department concluded that construction of a small retaining wall on the side closest to I-65 would allow parallel parking as well as comply with the zoning ordinance. The engineering staff explained that by doing this, the amount of parking spaces proposed by the applicant as shown on their original site plan are met on this plan, but in a different format.

Commissioner Fleishour noted that the applicant is adamant about the proposed entrance location of the building. Mr. Fleishour asked for the staff's opinion regarding the building entrance.

Ms. Diaz-Barriga stated that staff finds no reason why the entrance should be accommodated in the applicant's proposed location. Staff provided an alternative that would comply with the 3 to 1 slope and would allow the fire truck turnaround to get up into the site and around the building. There is nothing in the ordinance that requires that vehicular access be right in front of the door entrance. Ms. Diaz-Barriga stated further that what the applicant proposes goes against the intent of the city's long-term goals. Parking and vehicular access is meant to be secondary. The frontage requirements of the zoning ordinance bring the buildings closer to the street with vehicular access and parking available to the sides and the rear of the building.

Chair Langley stated that he would entertain a motion if the Board were ready.

Commissioner Caesar asked if Chair Langley would prefer the three variance requests to be presented as independent motions?

Chair Langley indicated that either way would be acceptable.

Commissioner Caesar motioned to approve the variance request to allow parking within the Riverside Drive frontage area for the property located at 880 Oak Meadow Drive, seconded by Commissioner Fleishour.

Chair Langley expressed his frustration with the situation. Basically, the Board and staff are being asked to design the site during the meeting, on the "fly". The Board and staff have provided feedback and guidance, but it appears that no progress has been made. The staff has spent time in meetings and provided exhibit drawings to advise the applicant of alternate solutions that follow the zoning ordinance as it's written, without variances needed. Chair Langley stated that he cannot support the variance request without more details provided by the applicant. For example, a sort of report that is a balance between a full site plan and a conceptual drawing.

Commissioner Caesar supported his motion by stating that since there are electrical transmission lines and the property is not adjacent to another property as it faces the interstate, strict adherence to the ordinance, for this property, is less of a concern. Mr. Caesar stated that he agrees with the frustration mentioned by Chair Langley. The goal would be to provide clear exceptions that would be acceptable to allow the property to be functional.

Ms. Diaz-Barriga stated that the only variance needed following the staff's alternative plan would be a variance for the setback. The parking plan explained on the staff's exhibit is permitted per the zoning ordinance. The parallel parking does not need a variance. Both sides of the building could use the internal drive and parallel parking. Again, the only variance needed would be variance request number 3 regarding front yard setback.

Commissioner Fleishour asked if it would be necessary to cap the parking.

Ms. Diaz-Barriga stated that to cap the parking spaces relates to the design of the site. The site is adjacent to the interstate and if the variance requests are approved that go against the ordinance, it will be clearly visible from the interstate.

Chair Langley explained that the city has new long-range plans and guidelines to implement the plans. It's not the position or purpose of the Board to grant variances in every instance of a "unique site." It's the job of BOMA and the Planning Commission to set the guidelines for zoning ordinances.

Chair Langley stated that there is a motion on the floor for approval of the first variance request for this item.

Commissioner Caesar motioned to approve the variance request to allow parking within the Riverside Drive frontage area, seconded by Commissioner Fleishour.

There being no further discussion, Chair Langley asked the Board to vote.

Vote Tally: 2-1

Commissioners Caesar and Fleisher voted in favor of the motion and Chair Langley voted against the motion. Motion passes.

Chair Langley recapped the second variance request for this item as a variance request to allow parking within the Oak Meadow Drive frontage area for a proposed principal building.

Chair Langley asked for a motion from the Board.

Commissioner Caesar motioned to disapprove the variance request to allow parking within the Oak Meadow Drive frontage area because the criteria for a variance have not been met, Commissioner Fleishour seconded the motion.

Commissioner Caesar stated that he believes the Oak Meadow Drive frontage does not have the high-powered transmission lines to contend with or the high visibility from the interstate. For these reasons, Commissioner Caesar recommended disapproval of the variance request.

There being no further discussion, Chair Langley asked for the Board to vote.

Mr. Rosiak asked if he could add comments regarding this variance request.

Chair Langley stated that the motion process had begun, and that discussion was over. The motion on the floor is for disapproval.

Chair Langley asked the Commissioners to vote.

Vote Tally: 3-0

Motion passes

Chair Langley stated that the third variance request is to increase the maximum front yard setback from 30 feet to 150 feet for the property located at 880 Oak Meadow Drive.

Commissioner Caesar asked if it would be appropriate to share a thought at this time.

Mr. Squires stated that at this point, a motion should be discussed.

Commissioner Caesar motioned to defer the variance request to increase the maximum front yard setback from 30 feet to 150 feet to the February 2, 2023, BZA meeting because not enough information has been provided by the applicant, seconded by Commissioner Fleishour.

Commissioner Caesar stated that more information is needed to determine exactly how much front yard setback would be required. The Board can't provide any more guidance than has already been given, based on the information provided by the applicant.

Commissioner Fleishour stated that the specifics of the variance request are too broad and could be considered an open variance, if approved.

Mr. Rosiak asked if he could comment.

Chair Langley stated that the motion process had already begun.

Commissioner Caesar asked if there was a way to provide more feedback so that the Board is not faced with the same situation at the next meeting.

Mr. Squires explained that there really isn't a mechanism for that directly. The motion that was made is to defer the variance request to the next meeting. The discussions that should be taking place should be about the reasons the deferral motion was made. The discussion should not include communication or feedback about the site.

Chair Langley stated that he cannot support the deferral motion because he believes that in order to move forward with development of this property, a new plan with a new variance request is needed.

There being no further discussion, Chair Langley asked the Board to vote.

Vote Tally: 2-1

Commissioner Caesar and Fleishour voted in favor of the motion. Chair Langley voted against the motion.

Motion passes.

Chair Langley stated that there was no further business.

Commissioner Caesar motioned to adjourn the January 5, 2023, BZA meeting, seconded by Commissioner Fleishour.

Vote Tally: 3-0



Board Chair