

***City of Riverside  
Board of Zoning Appeals Meeting***

***October 25, 2022  
7:00 P.M.***

***Members Present:*** Tim Cron  
Todd Pultz  
Tim Schneider  
Reece Timbrook

***Staff Present:*** Nia Holt, Zoning Administrator  
Joshua Rauch, City Manager  
Katie Lewallen, Clerk of Council

**CALL TO ORDER:** Vice Chairman Reece Timbrook called the City of Riverside Board of Zoning Appeals meeting to order at 7:00 p.m.

**ROLL CALL:** Mr. Cron, present; Mr. Pultz, present; Mr. Schneider, present; and Mr. Timbrook, present.

**APPROVAL OF MINUTES:** Mr. Pultz moved, seconded by Mr. Schneider, to approve the meeting minutes of September 27, 2022. All were in favor. **Motion carried.**

**PUBLIC HEARING:**

- A. **CASE #22-0018 – 6030 Airway Road** (Parcel ID# I39 00901 0003) B-2, General Business District. Variances from UDO §1113.13(C)(3) to allow a reduction in the required distances between curb cuts.

Ms. Holt stated this is a variance request from the UDO Section 1113.13(C)(3) to allow a reduction in the required distances between curb cuts. Three variances are requested. She presented an aerial map of where the applicant is proposing to put a gas station. There are currently six drives, but applicant is working to reduce the number of drives to four. She presented the site plan indicating drives A, B, C, and D. She presented site photos along with adjacent properties, and the specific variance locations. Staff finds the requested variances are adequately justified and meets the standards for approval. Staff recommends approval of all three variances as requested.

Mr. Pultz asked how many parcels did this entail. Ms. Holt stated it is just one. There are three uses on the parcel now, so they will develop one portion and leave the others until they decide on future uses.

Vice Chairman Timbrook opened the public hearing at 7:05 pm. Mr. Stephen Butler, 2440 Dayton-Xenia Road, Suite B, agent for the applicant, took the oath to give sworn testimony. He

stated he didn't have anything to add; he was just there for questions.

No one else came forward to give comment for or against. Vice Chairman Timbrook closed the public hearing at 7:06 pm.

Vice Chairman Timbrook stated he does not know how they would continue to operate without the requested variances. Discussion was held on having one motion or three. Mr. Jim Miller, legal counsel, stated that they could consider all three in one motion. Vice Chairman Timbrook moved, seconded by Mr. Schneider, to approve the application at 6030 Airway Road based on the staff report, evidence, and testimony heard today. Roll call went as follows: Mr. Timbrook, yes; Mr. Schneider, yes; Mr. Cron, yes; and Mr. Pultz, yes. **Motion carried.**

**B. CASE #22-0019 – 999 Spinning Road (Parcel ID# I39 01207 0014) C-I,**  
Campus/Institutional District. A variance from UDO §1115.09(G)(1) to allow an increase in the permitted sign area for an electronic message center.

Ms. Holt took the oath to give sworn testimony. She stated this variance request is from UDO Section 1115.09(G)(1) to allow an increase in the sign face area for an electronic message center. The requirement is 12 sq. ft.; the request is to increase it by 4 sq. ft. or a 33.3% increase. She presented an aerial map of the subject site with the sign on the front parcel facing Spinning Road. She presented a site plan with sign location highlighted and circled along with a rendering of the proposed sign, site photos, existing sign photo, and adjacent property photos. Staff finds the requested variance to allow an increase in the maximum sign face area is adequately justified and meets the standards for approval.

Vice Chairman Timbrook asked for clarification on what consisted of the electric portion of the sign. Ms. Holt presented the photo indicated what is electronic.

Vice Chairman Timbrook opened the public hearing at 7:12 pm. Mr. James Jackson, 5454 Creek Bend Dr., West Chester, OH, owner of Signs Now, took the oath to give sworn testimony. He stated that his business designed the sign for the church. It is a 32 sq. ft. sign. There is a current existing sign that uses letters and is 18 sq. ft. in size. It fits best to build the entire bottom; the city would allow a 12 sq. ft. which would be a 2' x 6' size for them and leave a 2' x 2' square, which they would have to deal with. This is why they requested a full size as it gives them more messaging capability and is less than they currently have. He can answer any questions about the sign. Mr. Cron stated the measurements aren't adding up on what he is seeing. There is a 4' x 8' now and another 4' x 8' they are building. He asked where the increase is that he is missing, the 4 sq. ft. Mr. Jackson stated it is only for the digital display. The city allows for a 12 sq. ft. digital display to be added, and this would be 2' x 8', so, 16 sq. ft. Mr. Cron stated based on the information he has it will only be 6' high. Mr. Jackson confirmed that was correct as the city restricts the height, which they can comply with.

Ms. Terri Parrott, 992 Spinning Road, took the oath to give sworn testimony. She stated she lives directly across the street from the property. She is concerned that putting in a new luminated sign at the property will introduce light pollution and create a neighborhood nuisance with the reflection of the sign and its operation. It can also potentially devalue her property should she wish to sell it. She is the last house in Saville at Eastman and Spinning, where they have

considered to approve placement of the sign and at times during the day it is a very busy intersection, so putting in an electronic display message board could potentially cause distraction to drivers and cause accidents. She stated that this business does not operate 24/7; they are a Monday – Friday with church on Sunday. They operate 8 am – 4 pm. She asked if the sign would be on 24/7, and would she get light pollution with it being on continually. She stated that there are other alternatives to having a sign put in place that is non-illuminated that could meet the same standards of having an illuminated sign that are made out of the same material. They could have spotlights on the sign; just not a digital sign. This is a church that is in the midst of a residential community. She feels putting a sign up will create light pollution and a nuisance for her and potentially traffic accidents. She has had accidents that end up in her driveway previously. She has accident reports from OSP indicating over 400 accidents in Riverside this year. She is asking for consideration, if not, conditions if they approve it. Conditions on hours of operations for the residents across the street and on Eastman that have to view it and live with it.

Mr. Schneider stated he respects her comments and where she is coming from. He stated that sign will illuminate north and south versus east and west. Ms. Parrot stated she lives diagonal to the sign so she will see the lighting from it through the front picture window of her home. She stated she already had a mandated crosswalk and ramp put in front of her home because of the school across from her. She also has to put up with traffic everyday trying to get in and out of the driveway because of the way they have traffic for school drop off in the morning. Now, they want to add an electric sign that runs 24/7. She is just asking for the city to consider that they don't need to operate the sign 24/7. It is a facility that has outgrown its space in the neighborhood. She is opposed to this; if it gets put in, she thinks there needs to be conditions for hours of operation.

Vice Chairman Timbrook closed the public hearing at 7:21 pm. Mr. Pultz asked if there needed to be a use variance for the electronic message board. Ms. Holt stated that they do not. The digital sign does have intensity limits they are supposed to put in technology that dims it as per the sign code. Mr. Pultz stated he respects the citizen's comments, but for tonight they are not deciding if they are allowed to have a digital sign; they are deciding if they will give them the additional four sq. ft. they are requesting. Vice Chairman Timbrook agreed, stating he was sympathetic, but it is outside the variance.

Vice Chairman Timbrook moved, seconded by Mr. Pultz, to approve the application of 999 Spinning Road based on the staff report, evidence, and testimony heard today. Roll call went as follows: Mr. Timbrook, yes; Mr. Pultz, yes; Mr. Cron, yes; and Mr. Schneider, yes. **Motion carried.**

- C. **CASE #22-0020 – 2401 Brantwood Boulevard** (Parcel ID# I39 00520 0059) R-3, Medium Density Residential. A variance from UDO §1115.01(E)(3) to allow a four (4) foot fence in a front yard.

Ms. Holt stated this is a variance from UDO Section 1115.01(E)(3) to allow a four (4) foot fence in a front yard. The requirement is a three ft. maximum height; the request is for one additional foot so a 33.33% variance. She stated it is a corner lot at Reading and Brantwood. The fence was built shortly after the construction of the house. The HOA was looking for records of the fence and neither the city nor the property owner had it, so they are going through the process now.

She presented the site plan, site photos, adjacent property photos, variance area photo, and the intersection, which indicates the clearance zone is free. Staff recommends approval of the variance.

Vice Chairman Timbrook asked if that fence was in line with the corner of the house going back to the edge of the property; it would not require a variance. Ms. Holt replied it would not. They are not constructing a new fence; this is an existing fence. She added it is an after-the-fact variance.

Vice Chairman Timbrook opened the public hearing at 7:27 pm. Mr. Robert Blakely, property owner of 2401 Brantwood Blvd, took the oath to give sworn testimony. He stated it is a corner lot and the house was supposed to be built the other way, so when they built it, they got permission from Lance Oakes at that time. The property developer then spotted where they could put a fence; it has been there for seven years and has never been a problem.

Vice Chairman Timbrook closed the public hearing at 7:28 pm. He stated this variance makes complete sense and comes close to missing them completely. There are no issues with site lines or altering the character of the neighborhood.

Vice Chairman Timbrook moved to approve, seconded by Mr. Schneider, to approve the application of 2401 Brantwood Blvd. based on the staff report, evidence, and testimony heard today. Roll call went as follows: Mr. Timbrook, yes; Mr. Schneider, yes; Mr. Cron, yes; and Mr. Pultz, yes. **Motion carried.**

**D. CASE #22-0021 – 164 Community Drive (Parcel ID# I39 00513 0031) R-1, Low Density Residential. A variance from UDO §1107.05(B)(1)(d) to allow an encroachment in the required side yard setback.**

Ms. Holt stated this is a variance request from UDO Section 1107.05(B)(1)(d) to allow an encroachment in the required side yard setback. The requirement is a 15' setback; the request is for an 11' or 73.3% encroachment. She presented an aerial of the property indicating the applicant is proposing to construct an accessory structure/carport and storage area with patio in the side yard. Because it is an R-2, the setback is larger than an R-3. She presented the site plan with a rendering of the structure. It will be about 4' from the side. She presented site photos and adjacent property photos. Staff finds the requested variance meets the standards for approval adding that there are similar structures in the neighborhood and the setback is enough for the property owner to maintain the structure without going onto the adjacent property.

Mr. Pultz stated that the driveway already looks like it is encroaching. Ms. Holt stated if they would like to put a condition they can require a survey.

Vice Chairman Timbrook opened the public hearing at 7:32 pm. Ms. Jill Hawn, property owner of 169 Community Drive, took the oath to give sworn testimony. She stated she purchased the property in the spring of 2021 for the purpose of moving her 77-year-old mother across the street from her. She stated her home was not captured in the photos, but they did see her garage, which is 2.5' from her neighbor's fence. Her intention is to put in a carport so her mother can drive straight in on the existing driveway and have covered parking to enter the back of her house

without any maneuvering around trees. She does have signatures from neighbors to the west who have no objection and other signatures from those who received the notification mailing. She has improved the property and reported that everyone is happy with those improvements.

Vice Chairman Timbrook closed the public hearing at 7:34 pm. Mr. Pultz stated he is okay with the variance, but he satellite view looks like the driveway is already encroaching on the neighboring property. While the neighbor may say they are fine with it, they need to think about 15 – 20 years down the road if the property gets sold. He is okay with the variance with a survey being done by a professional company presented by the city so they can verify that the encroachment is not already existing and work with the applicant. Vice Chairman Timbrook asked if the encroachment was zero, what would be different with what they were talking about. Mr. Pultz stated that currently it looks like the driveway is encroaching now. If they allow for the carport then they are allowing them to continue to encroach. If the driveway is off, then maybe the driveway needs to be moved a little or the city needs to make sure they are okay with what the plan is.

Mr. Pultz stated he would approve the application with the condition that a survey be done on the property and presented to the city so that they have the comfortability that encroachments are not allowed to be extended. Vice Chairman Timbrook stated he understood but didn't think it was necessary. Mr. Pultz stated he won't vote it without the condition. Mr. Cron agreed. Mr. Schneider stated he can understand their point. If it is approved and goes as is, and if there are new property owners they will see it. He knows they want to ensure that the property lines are set down and this was approved within an encroachment area.

Mr. Pultz moved, seconded by Mr. Cron, to approve the application of 169 Community Drive based on the staff report, evidence, and testimony heard with the condition that a survey be conducted by a professional firm and presented to the city. Roll call went as follows: Mr. Pultz, yes; Mr. Cron, yes; Mr. Schneider, yes; and Mr. Timbrook, no. **Motion carried.**

Ms. Holt stated she will be in touch with applicants tomorrow with the formal BZA decisions in writing. Those with submitted applications will be followed up with by the end of the week.

## **ZONING ADMINISTRATOR TOPICS:**

**A. Bylaws Update** – Ms. Holt stated she made the changes they discussed. She did find out what actions they can take for Section 5.05 as Mr. Pultz had a question and she posed it to the attorney. The board can't modify a decision once it comes to an appeal; they can either overturn the appeal or they don't. This is reflected in the section for formal decision. Vice Chairman Timbrook stated it looks like all the changes they requested were made. The time of the meeting will change to begin at 6:30 pm. Discussion was had on when to approve the bylaws.

Mr. Cron moved, seconded by Mr. Schneider to approve the updated bylaws. Roll call went as follows: Mr. Cron, yes; Mr. Schneider, yes; Mr. Pultz, yes; and Mr. Timbrook, yes. **Motion carried.**

Ms. Holt stated that the next meeting, November 29, will begin at 6:30 pm.

**B. 2023 PC/BZA Calendar Draft** – Ms. Holt presented the board with next year’s calendar, shifting the December date for 2023 up by a week. The board stated the calendar for 2023 was fine.

Ms. Holt stated that in the bylaws there are training requirements. On December 2, the Miami Valley APA Section is hosting a workshop at Sinclair, 8 am – 3:30 pm. Anyone interested can let her know and she will sign them up. She stated that it is on a Friday, and they will serve breakfast and lunch. Mr. Schneider asked what the fee was. Ms. Holt stated that it was included in the fee. The clerk stated that the city pays the fee for the planning commission and BZA members who wish to attend. Ms. Holt stated she needs to know by Friday, November 18, to get anyone registered.

**MATTERS BY THE BOARD:** Mr. Pultz asked if council found a fifth member of the board. Ms. Holt stated they have not. Mr. Pultz stated they should probably move ahead with appointing a Chair and Vice Chair. Vice Chairman Timbrook stated they should wait. Discussion was held on when to vote on these positions. There is one interested party who is away on vacation. Ms. Holt asked them to reach out to people they know in the community.

Mr. Pultz moved, seconded by Mr. Cron, to vote on the Chair and Vice Chairman positions. Roll call went as follows: Mr. Pultz, yes; Mr. Cron, yes; Mr. Schneider, yes; and Mr. Timbrook, no. **Motion carried.**

**ELECTION OF CHAIR AND VICE CHAIR:** Mr. Pultz nominated Mr. Timbrook as Chairman of the BZA. Mr. Schneider seconded. Mr. Timbrook accepted the nomination. Roll call went as follows: Mr. Pultz, yes; Mr. Schneider, yes; Mr. Cron, yes; Mr. Timbrook, abstain. **Motion carried.**

Mr. Schneider nominated Mr. Pultz as the Vice Chairman of the BZA. Mr. Timbrook seconded. Mr. Pultz accepted the nomination. Roll call went as follows: Mr. Schneider, yes; Mr. Timbrook, yes; Mr. Cron, yes; and Mr. Pultz, abstain. **Motion carried.**

**ADJOURNMENT:** Mr. Pultz moved, seconded by Mr. Cron, to adjourn. All were in favor. **Motion carried.** The meeting adjourned at 7:55 pm.

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Chairman

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Date