

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

***June 22, 2021  
7:00 P.M.***

***Members Present:*** Chuck Childers, Chairman  
Jerry Richardson  
Tim Schneider  
Reece Timbrook

***Members Absent:*** none, one open position on BZA

***Staff Present:*** Nia Holt, Zoning Administrator  
Gary Burkholder, Community Development Director  
Katie Lewallen, Clerk of Council

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

**ROLL CALL:** Mr. Childers, present; Mr. Richardson, present; Mr. Schneider, present; and Mr. Timbrook, present.

**APPROVAL OF MINUTES:** Mr. Timbrook motioned to approve the meeting minutes of May 25, 2021. Mr. Schneider seconded. On call of the roll: Mr. Timbrook, yes; Mr. Schneider, yes; Mr. Richardson, yes; and Mr. Childers, yes. **Motion carried.**

**HEARING OF APPEALS:**

- A. BZA Case # 21-0009 – 2347 Rondowa Avenue (Parcel I39 00711 0030) – R-3, Medium Density Single-Family Residential District**
- **The appeal of an administrative decision regarding a chain link fence in the front yard.**
    - **UDO 1115.01(E)(3)(b) and UDO 1103.13(I)**
    - **Chain link fence prohibited in front yard**

Ms. Holt stated this is an appeal of an administrative decision regarding a chain link fence in the front yard. She provided the background on the case. The request for a 36” chain link fence in the front yard violated Section 1115.01E of the City of Riverside’s UDO. Staff was unable to approve the permit and the already erected fence is out of compliance. The applicant stated there were nonconforming rights or a “grandfather clause”, but staff could not find any evidence of such. Staff sent the decision to the applicant on April 13, 2021. Section 1105.17 of the UDO allows the BZA authority to hear appeals on decisions made by staff. She provided a zoning map of the site, an aerial map, a site plan, and site photos of the property and photos of properties near the property. She provided the section of code that prohibits a chain link fence as well as the

section referring to nonconforming rights for a chain link fence. She stated they had to have found that the fence was there when the ordinance passed in March 2017. There is evidence that the fence was removed in the 90's and that removal forfeited the right to the fence. Therefore, any proposed fence would need to conform to the current design regulations and a chain link fence in the front yard violates the UDO. They could not issue a fence permit.

Chairman Childers confirmed the change was made in March 2017 and the fence was not existing on that date. Ms. Holt stated in the packet are letters from neighbors and previous property owner supplied by the applicant. Chairman Childers stated they would be considered unsworn testimony and do not have a lot of weight.

Chairman Childers opened the public hearing. Josh Davis took the oath to give sworn testimony. He stated that every property in the whole plat he lives in is chain link. He was made aware by the code enforcement officer that he needed to have a permit to install a fence. He was provided a permit and stated he did not notice it could not be chain link, only that it had to be 3'. He turned in the permit and then received a letter a week later telling him it cannot be chain link. He stated he is the only house on his street that doesn't have a chain link fence. He added that he has two children and a puppy and he built it to keep them in the front yard and so they can enjoy their front yard. He stated people in the audience that own the property around them and he grew up across the street at 2352 Rondowa. He commented on the letters he submitted and how the previous owner tore down the fence and replaced it with privacy fence in the back, but on the side of his yard there is like a bent terminal post like someone backed into it and it had been concreted too well that he left it up. He understands it is pretty much building a new fence, but even with one terminal post maybe it could be argued he was fixing it as there was one there before. He stated he just bought the house in January. He used to work for Bellbrook Fencing and stated it would look crazy for a wood fence in the midst of all the chain link fences. He stated his chain link fence is immaculate compared to others and it would not decrease value in the area. He asked if they would possibly grant him the ability to keep the fence as he would hate to tear down all that material and wood is so expensive right now. He is doing it for the protection for his children. He would like to be granted the opportunity to keep the fence and not have to tear it down.

Chairman Childers stated the reason others get to keep theirs is because they never took theirs down and they are grandfathered. The post does not qualify as a fence. He understands the argument. The fence had to be up before and after March 2017. He asked what type of fence could he have. Mr. Davis stated wood or vinyl. Chairman Childers stated they are not stopping him from having a fence, it just might not be chain link. Mr. Davis stated he understands the reasons behind not having chain link; they are trying to make Riverside look better and added he has one of the nicest looking houses in the plat. Discussion continued on when there was a fence last on the property.

Ms. Sherry Davis took the oath to give sworn testimony. She stated her father bought her house she now lives in in 1971 and is witness to a fence being on that property. They tore down the fence and put up a privacy fence as they had a swimming pool. She stated they worked hard to buy that home and that the fence is to protect the kids and every house on the block has kids and fences. She added they do not have a lot of money to buy wood since it is up 300%. He wants to keep his dog from having confrontation with another dog. She stated he just wants to own his

home, pay his taxes, and do right and be safe. She stated it is not diminishing anyone's property in the plat. She does not want to worry about the grandchildren getting hit by a car as people go up and down the street rather fast day and night. She added that he spent \$1,000 on the fence already. She asked if they have the ability to override the city's decision if it is not causing any harm to anyone's property. Chairman Childers explained they interpret the law as it stands; they cannot make the law. They have to determine if the city is not following the law, and they are following the law. They cannot rewrite the law. He added there can be different interpretations like her son is making the argument that there is a post there and it qualifies as a fence, but it doesn't qualify because it is not a fence. The city is not wrong in how they are reading the law.

Ms. Davis stated she thought this appeal was to decide on the decision to keep the fence. Chairman Childers stated if it was a variance it would be different as if the issue was the difference between a 3' and a 4' high fence; they have discretion and grant a variance, but when it comes to interpreting the law, they have to look at both arguments and decide who is arguing correctly as the law stands. He does not think it is in their jurisdiction to say the city is right, but they ignore the city and let them do what they want; it may not be good for them to do that nor to have the right to be able to do that. Ms. Davis replied she understands and stated some people have gotten permits. He added this type of ruling doesn't happen very often to BZA. Discussion continued on fence permits and variances.

Mr. Davis stated he did not want to take up any more of their time, and hoped they would interpret it as he could be grandfathered in as having a fence before and maybe someone backed into it as the post was bent and he was just repairing it. Chairman Childers stated they do not get to determine what is grandfathered; the law says they are grandfathered because it was nonconforming when the law changed. Discussion continued on different possible interpretations.

Chairman Childers explained that a photo is not what he needs; he needed a fence and when the law changed there was no fence. Mr. Davis asked what if the fence was not all taken down; it would be fixing an existing fence that is his argument. He stated he is hoping they will help him out so that he does not get ticketed for having the fence. He added he has the best-looking fence on the street and will not lower property values. Chairman Childers stated they are not concerned with property values. Mr. Davis stated he thought that was why they had the law.

Ms. Holt stated that if more than 50% of the structure is removed, then it loses its nonconforming rights.

No one else to speak in favor or opposition to the application.

Chairman Childers closed the public meeting at 7:27 pm.

Discussion was held among board members. Chairman Childers stated they all probably know how he feels. Mr. Timbrook stated they do; it is hard because so many houses in the plat have fences in the front yard. He added that most of the fences look terrible, but his looks nice. However, if they were looking at a variance, then there might be some avenue, but this is the first time he has seen an affirm or reverse decision come before them. Chairman Childers stated they were given the authority to interpret the rules and what the city says and if it complies with what

the applicant wants. For them to say they find for the applicant, then they are saying the city is wrong. Mr. Timbrook stated if they reverse it then they are saying the city is wrong by saying there was no existing structure. That is their only reverse. Chairman Childers stated they can't say it was there or that it was grandfathered because there was nothing there to grandfather.

Mr. Schneider stated it was an appeal, and asked if they can seek a variance. Ms. Holt replied no. They do have two parts to this. There is the nonconforming part and the fence being a chain link. They can reverse in whole or in part. They can look at the chain link fence, itself, and say are they going to reverse staffs decision and say they permit the fence or uphold it. Discussion was held that they could not do that and say there was no existing structure or precedence to fix or rebuild a fence, but yes to do a chain link instead of wood or vinyl. Ms. Holt stated it was the language of the appeal section. Mr. Schneider asked if they can see a variance at all. Ms. Holt stated that this falls into the 'design' standards as they ruled last time was not in their power. It is design and not dimensional.

Mr. Burkholder commented that these are some incidents that arise when individuals throughout the city don't get the permit first. Then, they don't wait for it to get approved and go ahead and construct the fence then appeal to the BZA. He urged everyone in the city to call the city before building to find out if they need a permit. If a permit is needed, they need to get the application, pay the fee, and let the zoning administrator review it first. Too many people build and then ask for lenience by the BZA. The whole legislative intent of the change in 2017 was so that there aren't more chain link fences in the front lawns. It should be respected.

Mr. Timbrook stated no one will build a wooden fence in the plat. This property is surrounded by chain link fences in the front yard. Discussion was held on the character of the neighborhood. Mr. Burkholder stated if the community wants to change that and allow chain link fences, they need to go through the legislative process. If they don't go back to the legislative body, then why do they even have a code enforcement officer or why have a code. He added they are empathetic to people in the community; they just need to call first. Their interpretation of the city code was correct and the evidence supports that interpretation.

Mr. Richardson stated this is not about the variance; it is about whether they reverse it or not. It is black and white; there was no fence there. Everyone there present said there was no fence there. They do not have any other option than to say they agree with the city.

Mr. Schneider stated he disagreed, but it is the law. Mr. Timbrook stated he also disagreed. Discussion was held on having a split vote of 2 – 2. Chairman Childers stated on a split vote the city ruling stands. Discussion was held on 50% of the fence. Chairman Childers stated if they vote against it, then they are saying the city is wrong. Mr. Schneider stated he is looking at from the standpoint of the neighborhood and some type of remedy. He agreed with Mr. Burkholder's statement how they see this again and again people not going through the process correctly. At the same time, they are trying to enhance community relations and show the citizens the city is looking out for them. Discussion was held on the remedy they had and the law.

Mr. Timbrook and Mr. Schneider stated they would vote no. Mr. Richardson stated it wasn't about the variance; this is strictly on the city correctly interpreting the law and they did.

Chairman Childers presented the findings of fact for Case #21-0009. The applicant is claiming that the Staff is misinterpreting the Code with regards to whether their current fence should be allowed as a “grandfathered” exception to the UDO. The Code at Section 1103.13.1 regarding Nonconforming structures states:

1. Where a lawful structure exists “at the effective date of adoption or amendment of this Ordinance” that could not be built under the terms of this Ordinance ... such structure may be continued as it long as it remains otherwise lawful subject to the following provisions:
  - a. No such nonconforming structure may be enlarged or altered in a way which increases it nonconformity.
  - b. Should such nonconforming structure or nonconforming portions of a structure be destroyed, by any means, to the extent of more than 50 percent of the cost of replacement at time of destruction of such structure, it shall not be reconstructed except in conformity within the provision of this Ordinance.

Facts known to the Board:

1. The Ordinance for this section of the Code was passed in March 2017.
2. There is no evidence presented that the previous chain link fence was still on the property at that time.
3. The previous owner in his letter to the Staff admits to removing the fence in the 1990s and therefore forfeiting any nonconforming rights to this structure for him and the current owner.
4. The current owner in a letter to the Board admits that neither he nor the Staff could find any Google Map depicting images with an existing fence and that the search went as far back as 2001. The current Ordinance was passed in 2017. Therefore, there would need to be evidence of an existing fence before and continuing after March, 2017.
5. The current owner makes the argument that since there was a terminal post in the ground that constitutes an existing fence and that he was repairing an existing fence instead of installing a new fence.

It is the opinion of this Board that to prevail there would need to be clear and convincing evidence that there was an actual chain link fence in use before March 2017 and that it continued to the present day to be considered a legal nonconforming structure. No evidence has been proffered that would allow this Board to agree that this structure is a legal nonconforming structure. Therefore, this Board agrees with the City’s interpretation that the current fence is an illegal non-conforming structure; motioned by Mr. Childers, seconded by Mr. Richardson.

On call of the roll: Mr. Childers, yes; Mr. Richardson, yes; Mr. Schneider, no; and Mr. Timbrook, no. **Chairman Childers stated that the city stands and it is an illegal fence.**

Mr. Davis asked if there was a way he could petition to change that in the code. Chairman Childers stated that currently they only have four people on the BZA. Ms. Holt stated they will discuss it among staff and give him a call. Mr. Davis stated he didn’t want to be fined \$100/day. It will cost him a lot to take it down. Mr. Burkholder asked him if there was a reason he didn’t get the permit in the first place. Mr. Davis replied he is a first-time homeowner and was not aware he even needed a permit because everywhere has the chain link fence. He was given an application and turned it in two days later. He was not thinking it wouldn’t pass as every house

in the plat has a chain link fence. Mr. Burkholder stated this is a good example that he should not have continued to construct the fence until he had checked to see if the permit would be approved. Mr. Burkholder added that this happens when people don't wait to see if their permit is approved and go ahead and construct it and have to go before the appeals board. They want people to be able to construct accessory structures, but in accordance with the Unified Development Ordinance, the zoning code.

Discussion was held on what is considered the front yard; and if the fence continued to the post in the front yard then over 50% remained. Chairman Childers stated they were discussing across the front yard only.

Mr. Davis asked if was able to sign a petition and submit it to council. He doesn't want to get a fine and request to get a sign put in the yard. Mr. Burkholder stated they need to clarify that if he goes to council they do not have the authority to override the decision. He does not want to miscommunicate. Ms. Holt stated they would be in touch with him by the end of the week to send him directions. Discussion was held about council not being able to override the decision. Mr. Davis asked how he could change the code. Mr. Burkholder explained the process that needs to be followed. He added that staff will discuss this internally based on the text and the decision this evening and see what the next step is. Mr. Burkholder stated they cannot make any commitment this evening. He stated that code enforcement falls under his purview and he understands his concern and will work with him on that. He recommended if he does any more building to contact them ahead of time.

**B. BZA Case # 21-0010 – 2557 Valley Street (Parcel I39 00715 0098) – B-2, General Business District**

- **Variance from the City of Riverside Unified Development Ordinance from UDO Section 1107.09 (C)(1)(d) to allow a structure to encroach into the required rear yard setback.**
  - **Minimum Rear Yard Setback**

Ms. Holt stated this variance is to allow an encroachment into the required rear yard setback. The requirement is 50'; the request is 31', an encroachment of 62%. She presented the case summary. The applicant is proposing a 1,500 sq. ft. accessory structure in the rear of their property to store tires. She presented the zoning map, an aerial map, a site plan, elevations for the structure, and site photos of the property and surrounding area. She reviewed the standards for approval. The applicant had been cited by the fire department due to the number of tires on the site. The variance is substantial due to the 62% rear yard encroachment. The property is located on the commercial corridor on Valley Pike, but it does abut a residential neighborhood to the rear. A fence and landscaping provide some screening, but there is concern on how vehicles can be moved within the rear of the building. The applicant is requesting the storage building to address the concern of the number of tires stored outside. She stated the property owner was aware of the zoning regulations when the property was purchased. A variance is needed to construct an accessory structure on the lot due to the required 50' setback. The construction of the storage structure will allow the applicant to come into compliance, but given the flammable nature of the contents, there is concern about not observing the 50' set back and feel that doing so will preserve the public health and safety. Staff recommends denial of the variance.

Chairman Childers stated there was some concern of a fire hazard with the building being close to residential. Ms. Holt stated the building is proposed because the fire department had concern with tires being stored outside so they are to be stored in a building instead. They are now going to be stored 19' away should this variance be granted. Chairman Childers stated it could still be a fire hazard inside the building. Ms. Holt agreed.

Chairman Childers opened the public hearing. Mr. Imahmoud Rababah took the oath to give sworn testimony. He stated the application he submitted was to comply with fire regulations. He is trying to meet regulations the best he can that is why he needs to see if this route will help him out. He has been at this location for 11 years and gets an inspection each year by the fire department. He did not have a problem until this year. The inspector came and stated he had more tires than expected because he does not have a sprinkler system. He is trying to get more space to move the tires to comply with the rules.

Mr. Timbrook stated it looks like from the picture when there wasn't room inside the building now that the tires end up in the back stacked against the building. That goes back towards the residential property. Mr. Rababah stated that it doesn't go back all the way. Some of the tires seen in the picture are tires that are disposed every week as he has a contract with Rumpke where they come and dispose of the tires. He added the building will come with the same setback as the current building. Mr. Timbrook stated the city mentioned how that putting that building in impacts how vehicles can get back there. Mr. Rababah stated he does not need maneuverability there he does not need it for cars. There is a truck there he doesn't use, but he can move it any time.

Mr. Schneider asked why he went with a larger building rather than smaller to avoid the encroachment towards the residential area. Mr. Rababah replied he was open to any suggestions, but he would like to have it this size. He could go for a different size. Mr. Schneider asked the city if the encroachment is to within 19' and the encroachment can't be more than 50'. Ms. Holt replied that was correct. In early discussions with the applicant, they sited 25' when they saw the parking set back and then they reached back out and told them it was 50' for the B-2 district. He asked Mr. Rababah if he needs that size for the tires. Mr. Rababah replied that was correct.

Mr. Youssef Elzein took the oath to give sworn testimony. He stated the setback was a lot closer to the existing building so that they can take advantage of all available space and stay in compliance with the setback; however, when they submitted the permit application to Montgomery County, they came back and requested in order to comply with the NFPA code to set the building further away from the existing structures. As a result, that is why they came to the city requesting the variance. They initially thought it would only be a 6' request, but found out it was a 31' request. The building was wider and longer and they shrank it in order to comply with NFPA to make it less than required, 20,000 cu. ft. They will have a fire alarm system as required as well as proper ventilation. They will comply with the NFPA code as that is the only way Montgomery County will allow them to build it. The residential area is further to the north; the closest house is at least 100' from the fence line. He added they do not need the area for maneuverability; they will use it to park or work on cars. Everything will be on the front. They are asking for consideration to build the building. The existing building is only 19' and they would not use that.

No one else had any comments or questions. Chairman Childers closed the public hearing at 8:10 pm.

Mr. Timbrook stated that proposed structure is just as far back as the current structure. The tires outside that are a fire hazard are against the current structure and behind it to the north, closer to the houses. It seems like they are trying to fit as many tires as they can into the new structure. So, they are moving them from being outside close to the line to inside, making it safe from the fire hazard. At the very least it is not worse off than the current conditions and allows the property owner to maintain the property. They aren't putting cars back there so he doesn't think that is an issue. Discussion was held with where things were located on the property in relation to the residential area.

Chairman Childers reviewed the findings of fact for Case #21-0010 – accessory building rear yard setback. The BZA finds that the Riverside Unified Development Ordinance was passed into law after a rigorous procedure was followed, therefore, the BZA began their inquiry with the presumption that the law should be upheld **without** a variance and that the burden is on the appellant to show by convincing evidence that the code should be varied regardless of how large or how small the requested variance may be. The property in question **would not** yield a reasonable return **without** the variance. The requested variance is 62% encroachment into the rear yard which is substantial. The BZA finds that the essential character of the neighborhood **would not** be substantially altered, and adjoining properties **may not** suffer a substantial detriment as a result of the variance. The BZA notes that staff has concerns about the maneuverability of vehicles within the rear of the site with the building added. The BZA finds that the owner's predicament **could not** be obviated without the variance due to the 50' setback requirement for structures next to residential uses. They find that the spirit and intent behind the Zoning Ordinance **can only** be observed by maintaining the 50' setback. The purpose of the building is to allow the applicant to be in compliance with the Fire Code. They also take into consideration that the city's zoning staff recommends denying the variance as requested. The BZA finds the appellant **has** met the burden of showing that practical difficulties exist for a variance for the addition as requested.

Chairman Childers motioned that the variance be granted as requested. Mr. Timbrook seconded the motion. On call of the roll: Mr. Childers, yes; Mr. Timbrook, yes; Mr. Richardson, yes; and Mr. Schneider, yes. **Motion carried.**

Chairman Childers reviewed the findings of fact for Case #21-0007b – maximum fence height. The BZA finds that the Riverside Unified Development Ordinance was passed into law after a rigorous procedure was followed, therefore, the BZA began their inquiry with the **presumption** that the law should be upheld **without** a variance and that the burden is on the appellant to show by convincing evidence that the code should be varied regardless of how large or how small the requested variance may be. The property in question would not yield a reasonable return and there cannot be a beneficial use of the property without the variance. The UDO requires a sturdy fence of not less than 48" in height to prevent a child from crawling or otherwise passing through or under the fence. The applicant requires a variance to meet this safety standard. The BZA finds that the variance is substantial; the requested variance is 100% since the request fence is 6', which is twice what is allowed. The BZA finds that the essential character of the neighborhood

**would not** be altered. By allowing this variance, the applicant will meet the safety requirements. They also take into consideration that the city's zoning staff requires approval only if the front yard setback is denied. The BZA finds the appellant **has** met the burden of showing that practical difficulties exist for a variance for fence height.

Chairman Childers motioned that the variance be granted as requested. Mr. Timbrook seconded the motion. On call of the roll: Mr. Childers, yes; Mr. Timbrook, yes; Mr. Richardson, yes; and Mr. Schneider, yes. **Motion carried.**

**C. BZA Case # 21-0011 – 2121 Harshman Road (Parcel I39 00203 0002 and I39 00414 0004) – I-1, Light Industrial District**

➤ **Variance from the City of Riverside Unified Development Ordinance Section 1113.13(C)(3) to allow a reduction in the required distance between driveways on Harshman Road and Transportation Drive.**

▪ **Distance Between Drives on 45 MPH Road**

Ms. Holt stated this variance request is to allow a reduction in the required distance between driveways on Harshman Road and Transportation Drive. The requirement is 360' for both of the distances. Harshman Road is a 31' reduction, a variance of 37.5%. The location on Harshman Road and Transportation Drive the request is 180', a variance of 50%. She presented the case summary of the former Morris Furniture site being converted into an indoor self-storage facility. Improvements to the site will include landscaping, installation of sidewalk, and elimination of the northern most drive. She presented the zoning map, an aerial map, the site plan, and site photos from different angles. She reviewed the standards for approval. She stated there will not be any beneficial use of the property without the variance and will be needed to provide proper vehicle circulation. The variance is substantial for both of them. The essential character of the neighborhood would not be changed. This would have them come into compliance with the UDO; no government services will be impacted. The property owner was aware of the zoning regulations; a variance is required to keep the current internal circulation plan for the site. The applicant has taken steps to bring the site into compliance. Staff recommends approval of the requested variance.

Chairman Childers opened the public hearing. Mr. Richard Holmes took the oath to give sworn testimony. Mr. Holmes is the architect on behalf of the owner of the property. He stated that the entrance off of Harshman is what they are living with. If they move it to the south, then they are too close to Transportation Drive. If they move it to the north, they are too close to the church's access drive so it is a darn-if-you-do, darn-if-you-don't situation. They are eliminating the northern most curb cut and that will help. It will help with the situation if and when the church will reopen. He stated this operation is a much less intense operation. It is not like Black Friday at Morris where there is a door buster to get in to the place. This is a low-intense operation. Maybe there will be an hour or two between visits, maybe even longer. They have also added signage to encourage and direct people to go out via Transportation Drive where they can come back and use that intersection to get out onto Harshman.

No one else wished to speak. Chairman Childers closed the public hearing at 8:24 pm.

The commission was in agreement on the need for the variances.

Chairman Childers reviewed the findings of fact for Case #21-0011a (Harshman Road 31' reduction). The BZA finds that the Riverside Unified Development Ordinance was passed into law after a rigorous procedure was followed, therefore, the BZA began their inquiry with the **presumption** that the law should be upheld **without** a variance and that the burden is on the appellant to show by convincing evidence that the code should be varied regardless of how large or how small the requested variance may be. The property in question requires a variance to be in compliance. The distance is an existing condition and is required to maintain proper vehicle circulation. The BZA finds that the variance is **not substantial** since the existing condition is only a 37.5% reduction and the distance between the drives. The BZA finds that the essential character of the neighborhood **would not** be substantially altered, nor would other properties be affected by leaving the existing current distance between the driveways. They find the owners predicament could **not be obviated** through some method other than a variance. They find the spirit and intent behind the zoning ordinance **would be** observed by granting the variance. They also take into consideration the zoning staff recommends approval of the variance as requested. The BZA finds the appellant **has** met the burden of showing that practical difficulties exist for a variance as requested.

Chairman Childers motioned that the variance be granted as requested. Mr. Timbrook seconded the motion. On call of the roll: Mr. Childers, yes; Mr. Timbrook, yes; Mr. Richardson, yes; and Mr. Schneider, yes. **Motion carried.**

Chairman Childers reviewed the findings of fact for Case #21-0011b (Transportation Drive/Harshman Road 180' reduction). The BZA finds that the Riverside Unified Development Ordinance was passed into law after a rigorous procedure was followed, therefore, the BZA began their inquiry with the **presumption** that the law should be upheld **without** a variance and that the burden is on the appellant to show by convincing evidence that the code should be varied regardless of how large or how small the requested variance may be. The property in question requires a variance to be in compliance. The distance is an existing condition and is required to maintain proper vehicle circulation. The BZA finds that the variance is **not substantial** since the existing condition is only a 50% reduction and the distance required between the drives. The BZA finds that the essential character of the neighborhood **would not** be substantially altered, nor would other properties be affected by leaving the existing current distance between the driveways. The applicant will make the drive on Transportation Drive right-in, right-out, only to improve the safety of vehicle access and movement on the site. They find the owners predicament could **not be obviated** through some method other than a variance. They find the spirit and intent behind the zoning ordinance **would be** observed by granting the variance. They also take into consideration the zoning staff recommends approval of the variance as requested. The BZA finds the appellant **has** met the burden of showing that practical difficulties exist for a variance as requested.

Chairman Childers motioned that the variance be granted as requested. Mr. Timbrook seconded the motion. On call of the roll: Mr. Childers, yes; Mr. Timbrook, yes; Mr. Richardson, yes; and Mr. Schneider, yes. **Motion carried.**

**NEW BUISNESS:**

**A) Joint Work Session** – Ms. Holt stated she emailed them about the joint work session. It will begin at 6:00 pm on August 12 and not at 6:30 pm.

**B) BZA Work Session** – Ms. Holt stated this would be to review the bylaws and see if there were any changes since they were written in 2006. She has also been sending them articles to read. They also need to talk about things they have not seen before that are coming up so they can be prepared. This will be BZA only, members, Mr. Burkholder, and herself. The law director could be a possibility. Mr. Burkholder stated Jim Miller will be present at the joint work session to give legal counsel as this is his area of specialty. Ms. Holt stated that would be the time if they had any questions on the articles she has been sharing. In her previous position, she served on the BZA.

**ADJOURNMENT:** Chairman Childers motioned to adjourn. All were in favor; none opposed. **Motion carried.** The meeting adjourned at 8:32 pm.

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Chairman

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Date