MEETING MINUTES
ZONING BOARD OF APPEALS - REGULAR SESSION
WEDNESDAY, OCTOBER 16, 2024, 4:00 PM

The Zoning Board of Appeals convened in regular session at 4:05 PM, October 16, 2024. called the meeting to order.

Roll Call

Attendee Name	Title	Status
Terry Ballantini	Vice Board Chair	Present
Michael Straza	Board Chair	Present
Zachary Zwaga	Board Member	Present
Nikki Williams	Board Member	Present
Victoria Harris	Board Member	Absent

City Staff present included Jon Branham, City Planner; Kelly Pfeifer, Assistant Director of Economic and Community Development; Alissa Pemberton, City Planner; John Myers, Assistant City Planner, and George Boyle, Assistant Corporation Counsel.

Public Comment
No public comment was provided.

Consent Agenda
Items listed on the Consent Agenda are approved with one motion; Items pulled from the Consent Agenda for discussion are listed and voted on separately.

Vice Board Chair Ballantini made a motion, seconded by Board Member Zwaga, to approve the consent agenda as presented.
Roll call.
AYES: Board Chair Straza; Vice Board Chair Ballantini; Board Member Williams; Board Member Zwaga
Motion passed.

Item 4.A. Review and approval of the minutes of the September 18, 2024, regular meeting of the Bloomington Zoning Board of Appeals.

Regular Agenda

The following item was presented:
Item 5.A. V-11-24 - Public hearing, review, and action on a request submitted by Krystyna Wojtkowski, for approval of a Variance to allow a reduced required rear yard setback for the property located at 3003 Carlene Drive. PIN: 14-36-405-015

Mr. Branham presented the staff report with a recommendation for approval of the Variance to the required Rear Yard setback. He described the property and identified the surrounding zoning and land uses. He noted the residence was constructed under a previous zoning code, which permitted a 25-foot Rear Yard setback. He described the location of other residences in the direct vicinity.

Board Chair Straza opened the public hearing.

No testimony was provided.

There was no Board questions or discussion.

Board Chair Straza closed the public hearing.

Vice Board Chair Ballantini made a motion, seconded by Board Member Zwaga, to establish findings of fact that the standards for approval of the Variance are met, that carrying out the strict letter of the Code does create a practical difficulty or particular hardship for the petitioner, and to approve the Variance with no conditions.
Roll call.
AYES: Board Chair Straza; Vice Board Chair Ballantini; Board Member Williams; Board Member Zwaga
Motion passed.

The following item was presented:
Item 5.B. SP-07-24 - Public hearing, review, and action on a request submitted by Lifelong Access, representing owner Oak, LLC, for a Special Use Permit for a School (Public) in the D-2 (Downtown Transitional) District, for the property located at 301 W. Washington Street. PIN: 21-04-331-009.

Mr. Branham presented the Staff Report with a recommendation for approval. He reviewed key site conditions and the fact that school uses are permitted as a Special Use Permit in the D-2 (Downtown Transitional) District. He stated the proposal was to renovate the existing building to include multiple community service agencies, including the school. He noted the school has been operating approximately a block to the southwest in another building for an extended time.

Chair Straza inquired whether the location of the school would impact any other businesses. Mr. Branham stated it should not.

Board Member Zwaga asked for clarification on the building being currently unoccupied. Mr. Branham confirmed the building was currently vacant.

Board Vice Chair Ballantini asked for clarification that the Special Use Permit was for the entire building. Mr. Branham stated it would be for a portion of the building of which the school would be occupying.

Chair Straza opened the public hearing.

Ann Keiser (Lifelong Access, 2000 Jacobssen Drive, Normal, IL), Applicant, explained that they have an existing positive relationship with an academic institution in Normal, where they house the Bridge Academy, and look forward to a similar relationship in Bloomington.

Board Member Zwaga inquired when classes would begin in the new location. Ms. Keiser stated she would have to defer the question to the school representative.

No other testimony was presented.

Chair Straza closed the public hearing.

Vice Board Chair Ballantini made a motion to establish findings of fact that the standards for approval of a Special Use Permit are met and to recommend approval of the request for a Special Use Permit for a School (Public) in the D-2 (Downtown Transitional) District, for the property located at 301 W. Washington Street, as submitted.

Roll call.
AYES: Board Chair Straza; Vice Board Chair Ballantini; Board Member Williams; Board Member Zwaga
Motion passed.

The following item was presented:

Item 5.C. SP-04-24 - Public hearing, review, and action on a request submitted by Mayer Zahn, with owner Ramesh Atluri, for approval of a Special Use Permit for a Vehicle Sales & Service Use, in the B-1 (General Commercial) District, for the property located at 1513 Morrissey Drive (PIN: 21-10-453-002).

Mr. Branham presented the Staff Report with a recommendation for denial. He reviewed the background and timeline of the case. He noted that the case had already been continued several times and that information that had been requested from the Applicant has not been provided.

Chair Straza opened the public hearing.

Mayer Zahn (101 S. Williamsburg Drive), Applicant, addressed the traffic circulation of the site. He explained that when he created appropriate circulation, the neighbor to the north, 1511 Morrissey Drive, parked vehicles in middle of the site to block access.

Board Member Ballantini inquired about the number of times that had occurred. Mr. Zahn responded once.

Board Member Ballantini explained that there needs to be a continual plan for ingress/egress that is agreed upon with all owners. Additionally, he noted that the City has requested information for multiple months without receiving it.

Mr. Zahn responded that he had done what the City had requested. Additionally, he stated that he was not notified about the hearing in September.

Board Member Ballantini asked Staff if they have been providing the Applicant with the information about the case and hearing schedule. Mr. Branham answered in the affirmative.

Mr. Zahn reiterated that he had completed what the City had requested of him.

Mr. Branham stated the ownership structure is the main issue and that a plan that both owners agree with is critical for the project to succeed.

Mr. Zahn added that he would agree to a plan to continue his operation. He noted that he will need to renew his license soon and needs to know if this site will be viable for the future.

Ramesh Atluri (1513 Morrissey Drive), property owner, explained the two vehicle access points for the lots and the condominium ownership structure for the northern building. He noted the subject building has been vacant for five years and Starbucks customers have been using the lot as overflow vehicle parking, which has caused damage. He explained the recent dispute with the property to the north.

Board Member Ballantini asked for clarification on the ownership structure. Mr. Atluri responded he only rents to the tenant in 1513 Morrissey Drive.

Mr. Branham stated it is a condo ownership structure and the actual buildings are under different ownership.

Mr. Zahn, in addition to previous testimony, reiterated issues with code enforcement items between him and Starbucks.

Board Member Ballantini explained the scope of case they are reviewing today. He noted that many of the concerns are not within the purview of the Zoning Board of Appeals.

No other testimony was provided.

Chair Straza closed the public hearing.

Chair Straza stated the concern is with the property ownership and approval of the Special Use Permit will not resolve these ongoing issues. He inquired with corporate counsel on the appropriate way to proceed. Mr. Boyle responded the Board can vote either way.

Board Member Ballantini expressed his concern with the ownership issues. He stated without an agreement there will still be issues with blockage, site circulation, and anything else the City may need.

Board Member Zwaga stated that the existing property owner disagreement causes notable issues. He noted to move forward their owners and tenants need to come to an agreement before the Board can move forward with the request.

Board Member Ballantini stated that the City has been requesting materials over the past couple of months and he is not confident that those materials will be provided if approved.

Chair Straza requested staff review the considerations for approval of a Special Use Permit. Mr. Branham reviewed each consideration, as outlined in the Staff Report. He noted considerations five (5) and six (6), related to ingress and egress, as well as conformance with the Code are not met.

Chair Straza asked for clarification that, as two considerations are not met, the Special Use could not be approved. Ms. Pemberton clarified that all considerations of a Special Use must be met to approve.

Vice Board Chair Ballantini made a motion to establish findings of fact that the standards for approval of a Special Use Permit are not met and to recommend denial of the request for a Special Use Permit for a Vehicle Sales & Service Use in the B-1 (General Commercial) District, for the property located at 1513 Morrissey Drive.

Roll call.
AYES: Board Chair Straza; Vice Board Chair Ballantini; Board Member Williams; Board Member Zwaga
Motion passed.

The following item was presented:

Item 5.D. SP-06-24 - Public hearing, review, and action on a request submitted by Aruthra, LLC (1301 Shaunessey Dr.), for a Special Use Permit for Single-Family Attached Dwellings in the R-2 (Mixed Residential) District, for property generally located north of the intersection of Fox Creek Road and St. Ivans Circle, consisting of approximately 6.57 acres. PIN: 21-18-153-009.

Mr. Branham presented the Staff Report with recommendation for approval. He reviewed key aspects of the proposed Special Use, including the private maintenance of streets, sufficiency of parking, and plan for stormwater management. He noted that this request is part of an Annexation Agreement and some procedural items. He discussed key site conditions, including adjacent zoning and uses. He provided an overview of the subject site plan, indicating the location of units, drainage easement, and detention.

Chair Straza opened the public hearing.

David Armstrong (Attorney for the Applicant) thanked the surrounding property owners for their open and cordial communication. He explained that there are substantial trees and brush along the eastern side of the property, but there are also drainage problems, and to correct the drainage issues some of the vegetation will need to be cleared. He stated the applicant has no intention of removing trees that are not necessary as part of the drainage improvement effort since screening helps both parties, and the applicant does intend to plant additional trees after completion of the project. He reflected on traffic concerns discussed at the Planning Commission hearing, noting that the Special Use requires review of ingress and egress related to the proposed development, but concerns pointed to existing issues with Fox Creek Road in general, which are not specifically related to the implications for this project, or to the location of ingress and egress.

Mr. Branham pointed out that staff recommends a condition of approval that a landscape plan, in compliance with the Code and developed in consultation with the adjacent property owner, is submitted. Attorney Armstrong stated they do not have any objection to that condition.

Commissioner Ballantini inquired what the planned completion date is for the project. Attorney Armstrong stated he was unsure of completion date but the plan to break ground, should the Special Use be approved, is 2026.

Neil Finlen (Farnsworth Group, Engineer for the Applicant) explained that he has worked with other developers on three (3) different layouts for projects on this site and none were able to make it work. He noted the pressing need for housing in the area, particularly for an increased variety of home types. He described the proposal as 58 units on 6.5 acres, at a density of 8.9 units per acre, where 13 units per acre would be allowed by the R-2 zoning district. He reviewed detail on the public infrastructure adjacent to the property, that the City would not have costs associated with infrastructure extension, and the developer will have tap-on fees to pay the City as part of the project.

He stated the interior streets will be private with no parking allowed, maintenance and private garbage pickup will be the responsibility of a Homeowner’s Association; all costs the City will not have to pay. He stated they were hoping to have screening on the east side of the project but found there are tremendous drainage problems; a large diameter stormwater culvert that runs under the road and runs along the eastern side of the property into the creek causes flooding in the current condition. He thanked adjacent property owners for helping them understand the level of concern that flooding poses. He stated they believe they can find a solution that works for them and the adjacent community; they believe the outcome will be a 3-feet deep grass waterway with centralized drain tile, so it stays dry normally to prevent foliage overgrowth to the current extent. He stated they will work in concert with adjacent property owners to develop a landscape plan before presentation to Council.

He explained that they would tie into the park on northeast corner with a footbridge; they had discussed another form of access at the Planning Commission, but after further engineering the preferred alternative was identified as a small footbridge. He noted that parkland dedication will be satisfied by a fee-in-lieu will go to the local park planning area, but no improvements are planned or required to the park itself. The units are expected to be approximately 1,800 square feet, in the $300,000 cost range, as an effort to “downsize without downgrading.”

Board Member Ballantini inquired whether the units would be identical. Mr. Finlen confirmed. He expounded the project will be built in two phases: the western portion near the access first, then the portion to the east. The drainage work would be completed with the initial construction.

Chair Straza expressed his interest in ensuring the drainage and screening are appropriate. Mr. Finlen stated he is confident they can improve the existing drainage issues, and they will continue working on the landscaping issue.

Commissioner Williams left at 4:58pm.

Ms. Pemberton read § 44-1702A(3)(a) which states “a quorum is a majority of the members currently serving,” so three (3) members is still considered a quorum, and action may still be taken in Ms. Williams’ absence. Attorney Boyle affirmed that action may proceed on the Special Use.

Robbie Osenga (216 E. Grove Street) stated he supports the project, as local real estate broker and business owner. He described the project as directly addresses the need for housing, meet needs and invest in long-term success of the community by making use of existing infrastructure and taking advantage of infill opportunities. He advocated for continued flexibility and creativity in zoning; need to foster innovative housing solutions. He voiced concern that $300,000 may sound outrageous to some but explained that today’s market makes building anything new in a single-family manner, at that price point is difficult, but imperative. He empathized with nearby property owners who purchased with the expectation of surrounding property remaining as-is and hopes they can find solutions to balance drainage and screening needs. He restated his support for efforts to provide housing in an innovative and cost-effective method, including the project as proposed.

Emilie Karun (9 Tangle Oaks Road) stated that her family has lived adjacent to the proposed property for 15 years and selected the property due to the location and characteristics of nearby properties. She stated she spoke at the Planning Commission hearing about concerns related to the density of the project; traffic, overcrowded schools, not fitting with nearby homes, and the disruption of the natural environment. She stated she has additional concerns and requested the Board not approve the Special Use Permit.

She reviewed items related to the first Standard for Consideration one (1), opining that the existing varied structure type in the area is not reason enough to approve additional units on property requiring a Special Use Permit. She stated the land is not big enough to accommodate the proposed density without negatively impacting surrounding properties. She discussed concerns related to existing degraded roads, a lack of traffic lights, and the duration of time residents have sought the expansion of Fox Creek Road Bridge, seemingly without action by the City. She referred to traffic items discussed at the Planning Commission and voiced concern that additional houses in the area will exacerbate existing problems. She requested that the Special Use Permit not be approved until the City can prove they can take care of the existing residents in the neighborhood.

She also reviewed items related to Standard for Consideration two (2); she noted that the project was going to result in a change from dense brush to dense housing. She stated she has been working with engineers and appreciated the conversations, but the established treeline will need to be mostly eliminated. She noted that § 44-13 requires a landscaped buffer. She inquired about the landscaping fitting into the site plan when they are already asking for Variances to make it all fit. She stated the project just does not fit in the proposed space and this standard is not met.

Warren Farrar (2310 Knollbrook Way) discussed existing traffic conditions and issues along Fox Creek Road. He inquired whether Mr. Lewis should have been able to vote at Planning Commission since he lives in the Fox Creek area. He stated the City Engineer referred to Fox Creek as a four-lane road, which he asserted is not entirely true. He stated his understanding that mixed use development is important, but that we need to avoid putting low-cost housing in the middle of high-cost housing. He stated realtor friends have informed him that planned developments are not selling. He stated that landscaping take time to grow and mature. He requested that the Zoning Board deny the Special Use Permit.

Jason Karun (9 Tangle Oaks Road) stated he understood and appreciated the need to develop housing. He stated concerns regarding traffic and drainage. He stated he has confidence that drainage would be addressed with the proposed project from the engineer. He stated he also had concerns regarding screening.

Nathan Bassett (6 Tangle Oaks Road) requested the Board think about whether they should approve a development in that location just because they can. He stated that Pepper Ridge School is already at capacity. He clarified that there are not turn lanes on Fox Creek Road except for right turn onto Oakland Avenue. He inquired about the practicality of a hammerhead turn-around as it has not been needed in the past nor currently. He stated he appreciated working with Mr. Finlen but has concern that a great deal of trees would be removed as part of the construction. He questioned the engineering plan for addressing the drainage issues. He stated that residents have managed to deal with area flooding for years because the City has not assisted.

Ken Gentes (2326 Oakland Ave) stated he has lived on the property to the west for 60+ years. He expressed concerns about whether there would be fencing along the west edge of the development.

William Baird (7 Tangle Oaks) expressed concerns about drainage and access to Westwood Park, as the water can get high during rain events. He stated a belief that there are too many units in the proposed space. He recommended that the required 1.1 acre of parkland that is required to be dedicated at the subject property to reduce the number of units.

John Johnston (5 St. Ivans Circle) expressed that he believes the project should be good for the community and not just the developer. He stated he has no issues with units/design/developer but had concern with standards that are being met or not met. He expressed concern about the traffic at the Fox Creek Road bottleneck at the railroad bridge.

He questioned the prohibiting of on-street parking and the proposed density of the site. He reviewed the lack of park space and distance to schools. He stated his understanding was for a future development to connect to Tangle Oaks Road and encouraged an additional access point. He inquired about environmental review of the site, including the Ecological Compliance Assessment Tool (EcoCAT).

Lori Farrar (5 Lone Oak Court) cited the Bloomington 77 and The Links projects as housing projects on more appropriate roads. She noted homes in the Fox Creek area that have been on the market for an extended time.

Mr. Branham stated traffic is not directly tied to a Special Use Permit, however it is considered as part of the review. Ms. Pemberton added there is consideration related to ingress/egress and localized impact.

Chair Straza asked Mr. Finlen to respond to some of the questions raised by the testimony thus far.

Mr. Finlen explained that the retention basin on north side will capture all water from the development itself, except for the 50-foot waterway along east side which will flow as-is, once improved. He stated EcoCAT will be completed, as required, but it is not required as part of the processes at this point. He elaborated on proposed landscaping details. He also explained the reasoning for the single vehicle access point and not extending Tangle Oaks Court.

Board Member Zwaga inquired about efforts to retain existing privacy. Mr. Finlen stated much of the existing contains overgrowth and that they would put back something healthier.

Chair Straza closed the public hearing.

Kevin Kothe, City Engineer, explained that the project designed to address many of the concerns discussed tonight is planned for bid in the spring of 2025 and should begin construction in the summer. He stated the project includes the expansion of the road and bridge, the addition of a sidewalk on the south side of Fox Creek Road, as well as the addition of traffic signals for Danbury Drive and Beich Road. He stated with the proposed improvements there will be adequate capacity of the road network.

Board Chair Straza inquired if the traffic signals would assist with pedestrian access in the area. Mr. Kothe stated yes and there would be crosswalks and pedestrian pushbuttons added.

Vice Board Chair Ballantini inquired if there was a concern related to school capacity.

Ms. Pemberton stated local school units should have reasonable expectations given that the zoning would be updated from an existing R-2 County to an R-2 City designation, which contains similar expected densities. She stated staff had contacted the school district prior to the Planning Commission review of the item and that no concerns were expressed. She also reviewed Mr. Lewis' participation in the Planning Commission meeting and that no conflict of interest existed.

Board Member Zwaga inquired if there were additional traffic calming options to consider. Mr. Kothe stated they are actively working with the Bloomington Police Department and monitor vehicle speeds with detection signs. He stated the current speed limits are appropriate.

Board Chair Straza inquired about the timing of the proposed road work and the proposed development timing. Mr. Kothe stated construction would be expected to begin next summer and would be phased to keep the bridge open during construction. He stated it would be close to a two-year project.

Vice Board Chair Ballantini inquired if road work would be expected to start before the construction of the proposed development. Mr. Kothe confirmed.

An audience member stated the issue of the Planning Commission vote was not being addressed. Mr. Boyle advised the Board that what is before them is a request for a Special Use Permit and the vote of the Planning Commission is not a component of that discussion. He invited the audience member to contact him directly with questions.

Chair Straza requested staff to review each of the findings of fact required for a Special Use Permit. Mr. Branham reviewed each of the findings, as presented in the staff report.

Board Member Ballantini made a motion, seconded by Board Member Zwaga, to establish findings of fact that all standards for approval of a Special Use Permit are met, and to recommend approval of the request as submitted, subject to submission of a landscaping plan that meets the requirements of the Code, developed in consultation with adjacent property owners on Tangle Oaks Road.
Chair Straza directed the clerk to call roll:
AYES: Zwaga, Ballantini, Straza
Motion passed.

The following item was presented:

Item 5.E. V-10-24 - Public hearing, review, and action on a request submitted by Aruthra, LLC (1301 Shaunessey Dr.), for Variances from § 44-1503 and § 44-403 to allow a reduction or removal of requirements in a Planned Unit Development, a minimum lot area per dwelling unit of less than 3,300 square feet, and a reduced corner front yard, for property generally located north of the intersection of Fox Creek Road and St. Ivans Circle, consisting of approximately 6.57 acres. PIN: 21-18-153-009.

David Armstrong (Attorney for the Applicant), requested the item be continued to the next Zoning Board of Appeals meeting.

Vice Board Chair Ballantini made a motion, seconded by Board Member Zwaga, to continue the item to the next Zoning Board of Appeals meeting, November 20, 2024.

Roll call.
AYES: Board Chair Straza; Vice Board Chair Ballantini; Board Member Zwaga
Motion passed.

New Business

There was no new business reported.

Adjournment

Board Member Zwaga made a motion, seconded by Vice Board Chair Ballantini, to adjourn the meeting.
AYES: Board Chair Straza; Vice Board Chair Ballantini; Board Member Zwaga
Motion passed.

The Meeting Adjourned at 6:09PM

CITY OF BLOOMINGTON

Michael Straza
Michael Straza, Board Chair

Jon Branham
Jon Branham, Staff Liaison