

MINUTES
Regular
Azle Zoning Board of Adjustment

505 W. Main Street
Azle, Texas 76020

July 29, 2024

6:00 PM

Council Chambers

NOTICE IS HEREBY GIVEN THAT ONE OR MORE ZONING BOARD OF ADJUSTMENT MEMBERS MAY PARTICIPATE IN THE MONDAY, JULY 29, 2024 MEETING OF THE CITY OF AZLE ZONING BOARD OF ADJUSTMENT VIA VIDEOCONFERENCE. A QUORUM OF THE GOVERNING BODY AND THE PRESIDING OFFICER WILL BE PRESENT AT THE ABOVE-NAMED LOCATION.

REGULAR SESSION

CALL TO ORDER

Chairman Pennie Nichols called the meeting to order at 6:01 p.m.

Members Present:

Chairman Pennie Nichols
Board Member Jared Arneson
Board Member Jim Carlson
Board Member Rob Schocke
Board Member Alternate Rick Simmons

Members Absent:

Vice Chairman Leonard Wheeler

Staff Present:

David Hawkins, AICP	Director of Planning and Development
Malinda Nowell	Sr. Administrative Assistant
Andrea Russell	City Attorney

INVOCATION

Board Member Jared Arneson gave the invocation.

PLEDGE OF ALLEGIANCE

Board Member Jared Arneson led the pledge.

PUBLIC PARTICIPATION

None

PRESENTATION

1. Training regarding Legal Rules and Responsibilities of the Board.

City Attorney Andrea Russell presented this training which included: governing law in Chapter 211 of

the Texas Local Government Code (LGC), Section 34 of the City's Zoning Ordinance, and the City's Rules of Procedure; the Board's authority to hear and decide appeals, special exceptions, variance requests, and matters authorized by the Zoning Ordinance; the conditions for granting a variance; and that HB 1475 which amended LGC 211.009 in 2021 expanded the criteria the board may consider when hearing a request for a variance.

Ms. Russell stated that HB 1475 amendments changed the "unnecessary hardship" analysis by adding more objective criteria for the board's consideration. Now, purely financial considerations can qualify an applicant for a variance. Additionally, if the proposed structure was considered a non-conforming structure, that would be grounds to grant a variance. These grounds make it easier for a situation to qualify as an "unnecessary hardship" than in the past. Ms. Russell noted that the board should keep in mind that to grant a variance, the variance must not be contrary to public interest, and the spirit of the zoning ordinance must be observed. Even if a structure fits an "unnecessary hardship" category, the granting of a variance is not automatic and facts surrounding each request still have to be analyzed by the board on a case-by-case basis.

Additional topics of discussion included: legal and illegal non-conforming situations; that no condition guarantees a variance; that each variance is at the board's discretion; that city ordinance states that any variance granted shall ensure that the spirit of the ordinance is observed and that substantial justice is done; that each request is case-by-case and must be considered separately and individually based on circumstances of each specific request; that each case is a two-step process which includes identifying the hardship and determining whether the hardship is "unnecessary"; that it is incumbent upon the applicant to provide proof of why they believe they meet a hardship; the importance of the Open Meetings Act and open discussion during the meeting as to why/how the board arrived at given decision; that hardship is only one small portion of the board's analysis; the difference between a special exception and a variance; that the board considers appeals regarding the meaning of an ordinance or a determination of a city official; that appeals of a decision of the board go to district court; that an abstention counts as a vote against; that the board can place reasonable conditions for granting a variance; that variances do not pertain to the manner in which a property may be used; that board members should make the city aware of any potential conflict of interest in advance of a hearing; the limitations on the board authority; that a ZBA decision must be unbiased; that the public hearing must be adequately noticed as required by law; that witnesses be sworn in and given equal opportunity to introduce evidence and rebut contrary evidence or testimony; that the ZBA's decision must be supported by a record with a factual basis for their decision; that board members not visit the property in question; that board members do not testify or offer factual information; that decisions must be based on testimony and evidence presented at the hearings; and that prior knowledge of the facts are not necessarily sufficient to prove bias.

CONSENT AGENDA

2. Consider approval of the minutes of the Zoning Board of Adjustment meeting held January 29, 2024.

Board member Rick Simmons moved to approve the minutes of the Zoning Board of Adjustment meeting held January 29, 2024 as presented. Commissioner Arneson seconded the motion. Motion carried.

Yes:	(5)	Jim Carlson, Rob Schocke, Jared Arneson, Pennie Nichols, Rick Simmons
Absent:	(1)	Leonard Wheeler

PUBLIC HEARING

3. Conduct a public hearing to consider a variance request to Section 19 (3) Setback Requirements of the City of Azle Zoning Ordinance for the property located at 1605 Southeast Parkway, and also known as Lot 1, Block 1, JA-JLP Addition, an addition to the City of Azle, Tarrant County,

Texas. The purpose of the variance is to allow for the construction of a new building addition to encroach the minimum twenty-five foot (25') front yard setback.

Director of Planning and Development David Hawkins presented this item. This request for variance to the setback requirements is for the applicant to add on to the west side of the existing building for expansion of the business. Mr. Hawkins stated that a previous site plan was approved, and a permit was issued even though the building currently encroaches the setback on all sides. Mr. Hawkins stated that he could find no record of previous variance when the building was built. There is a roadway on all sides of this property essentially making it an island and therefore has "front" setback of 25' on all sides. Additionally, the plat shows a 15-foot city sewer main easement splits the property and prevents the owner from adding onto the east. If granted, a variance to allow a change in the setback requirements would bring the existing building into compliance. Mr. Hawkins stated that there is a great deal more parking than what is required for the existing "warehouse", and they will still exceed the required number of parking spaces with their expansion. The only place the property can be accessed is on Wells-Burnett because TxDOT would not grant other access.

Chairman Nichols opened the public hearing at 6:59 p.m.

Sales and purchasing manager Jake Horsley, 229 Basalt Lane, Azle, and Vice President of Operations Chris Flores, 6805 White River Drive, Fort Worth, spoke on behalf of Lake Country Avionics. Mr. Horsley stated they were not aware of some of the complications with this property but that it works well for their operation. He stated they are an 8:00 a.m. to 5:00 p.m. Monday through Friday business with 15 employees and their parking lot is generally empty because most of their business is done over the phone or by email. Mr. Horsley stated they need the space to keep their business moving at its current pace. The business has increased from about 2,000 to 10,000 parts in three years and by the addition of five or six employees in just the last year and a half.

Jared Hopkins of Probuild Construction, 100 Maral Lane, Azle, spoke in favor. Mr. Hopkins stated that the applicant would not be able to build on the east side and that the business has grown a lot more than they expected in a short amount of time.

As there were no other speakers, Chairman Nichols closed the hearing at 7:03 p.m.

The Board inquired about various options for relocation or size to reduce or modify the encroachment. The parking on the west side is to be removed and will be landscaped. Access to the warehouse will be via one standard door or through the existing building; there will be no roll up doors or garage doors.

Mr. Hawkins stated that staff cannot locate any interpretation or variance having been granted in 2019 when this building was built.

Board member Rob Schocke moved to approve this variance request for 1605 Southeast Parkway, to allow for the construction of a new building addition to encroach the minimum twenty-five foot (25') front yard setback as presented. Board member Jared Arneson seconded the motion. Motion carried.

Yes: (4) Jim Carlson, Rob Schocke, Jared Arneson, Pennie Nichols

No: (1) Rick Simmons

Absent: (1) Leonard Wheeler

4. **Conduct a public hearing to consider a variance request to Section 22 (3) Setback Requirements of the City of Azle Zoning Ordinance for the property located at 128 Richardson Street, and also known as a tract of land out of the James Hardgrove Survey, Abstract No. 1768, Parker County, Texas. The purpose of the variance is to allow for the construction of a new building addition to encroach the minimum twenty-foot (20') rear yard setback.**

Director of Planning and Development David Hawkins presented this item. He stated that 128 Richardson is a private street, not owned or maintained by the city. It is zoned Industrial (IND) which requires a 20-foot rear building setback. No building permit has been located for the rear building

because it was understood by the owner that the property was located outside the city limits; however, that is not the case. This property was rezoned in March 2017.

Chairman Nichols opened the public hearing at 7:22 p.m.

Owner and applicant Mr. Zamarripa stated they want to add onto the building. He stated he has been doing business here since 2017, near the industrial park, and that his property backs up to cattle pasture. He stated it has been a blessing to do business here, that more than half of his employees are from Azle, that students from the welding shop work for him during the summer and some of them end up working next door.

As there were no other speakers, Chairman Nichols closed the hearing at 7:25 p.m.

Mr. Zamarripa stated that the current building is 40' x 60', and that the proposed shaded area to be added is 40' x 40'. Mr. Zamarripa stated he could close the building but that would restrict airflow and it gets too hot. Mr. Zamarripa bought the property in 2016 and the building was finished December 31, 2016, which was when Mr. Greg Mitchell advised him that he was inside the city limits. He said the property was a church at one time and there was a lot of trash on the property but that he cleaned it up and got it approved then for zoning in March 2017. This property has actually been inside the city limits since the '90s. Mr. Zamarripa has tried to do everything right and get all the necessary permits since the zoning in 2017.

Adjacent property owner Ms. Richardson sent a letter in favor.

The business' work hours are 7:00 a.m. to 5:00 p.m. Monday through Friday. There is no smoke, no burning. They do have welding, but they have extractors. Outside storage is allowed in Industrial zoning. Mr. Hawkins stated that there are no inquiries for multi-family for the land area behind this subject property.

Mr. Zamarripa stated that his business is the only one that engineers parts for the TF300, a small trencher.

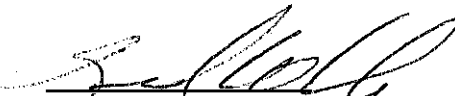
Board member Rick Simmons moved to approve this variance request for 128 Richardson Street to allow for the construction of a new building addition to encroach the minimum twenty-foot (20') rear yard setback as presented. Board member Rob Schocke seconded the motion. Motion carried.

Yes: (5) Jim Carlson, Rob Schocke, Jared Arneson, Pennie Nichols, Rick Simmons
Absent: (1) Leonard Wheeler

ADJOURNMENT

Chairman Nichols adjourned the meeting at 7:42 p.m.

Presented and approved on 6 Jan. 2025


Leonard Wheeler, Vice Chairman

Attest:


David Hawkins, AICP
Director of Planning and Development