

Minutes of the Regular Meeting of the Ogden City Board of Zoning Adjustment held on Wednesday, January 24, 2024, at 4:29pm, in the Council Chambers and via electronic means on the third floor of the Municipal Building, 2549 Washington Boulevard, Ogden City, Weber County, Utah.

Members Present: Charles Casperson, Chair
Judy Elsley
Scott Larsen

Members Excused: Stephanie Nix

Staff Present: Joseph Simpson, Deputy Planning Manager
Jennifer Patrick, Planner
Damian Rodriguez, Planner
Marqae Martinson, Administrative Assistant II
Katie Ellis, Assistant City Attorney

Approval of the Minutes, of the regular meeting held December 13, 2023

A MOTION WAS MADE BY MR. LARSEN TO APPROVE THE MINUTES AS PREPARED. MOTION WAS SECONDED BY DR. ELSLEY AND PASSED UNANIMOUSLY, WITH ALL VOTING AYE.

Case #2024-1: Resubmittal request for a variance to allow access easements to be used as measurement of walking distance to bus stops that will reduce parking stall requirements for a proposed apartment complex located at 151 12th Street.

The applicant, Bryan Bayles, of Nilson Homes, stated that the only access to the property is on 12th Street, with an easement through Napa Auto Parts to the west. He explained the proposal is to lower the requirement of parking stalls, due to their proximity to the transit stops on Wall Avenue and 12th Street and requested that the measurements be taken from the access easement.

Ms. Patrick presented an overview of the property as described in the staff report. The proposed project is the Cinepointe Apartments, which will be a four-story building with 117 units, requiring 1.75 parking stalls per unit for a total of 205. She stated that prior approvals for this case were in January of 2022 and June of 2021 and had since expired. She indicated that Ogden City Zoning Ordinance has a provision for parking reduction if certain criteria are met, which are based on trends, sufficient use of land, and not requiring overparked development with large hard surface areas. Ms. Patrick reviewed the criteria, in Utah State Municipal Code 10-9a-702, for accepting a variance and stated that the literal enforcement of the of the property line measurement would cause an unreasonable hardship that is not necessary to carry out the general purpose of the ordinance. She expressed that the small amount of frontage along 12th Street, of 49 feet, compared to the parcel size is a special circumstance attached to the property that does not apply to others in the same zone. Granting the variance is essential to the enjoyment of the property because the property only has a small amount of frontage and is limited by the criteria for the reduction even though a person would be able to walk to the bus stops on Wall Avenue in less than 660 feet.

Ms. Patrick reported that granting the variance would not substantially affect the general plan because it aligns with it by encouraging people to use mass transit. It is also not contrary to public interest as the reduction is a more efficient use of land without creating large hard surfaces for parking lots. She added that the spirit of the zoning ordinance is observed by the ability to utilize walking

distance from access easements to mass transit for parking reductions and substantial justice is done as a variance retains the intent of the code of allowing the reductions when bus stops are accessible to a development, even though the actual property line location doesn't allow it. Based on the findings that the request meets the criteria required for a variance, staff recommended approval of the variance to use access easements as measurement to determine walking distance to bus stops for parking stall reduction.

A MOTION WAS MADE BY MR. LARSEN TO APPROVE THE VARIANCE TO USE ACCESS EASEMENTS AS MEASUREMENT TO BUS STOPS FOR THE REDUCTION OF PARKING SPACES FOR THE PROPOSED APARTMENT DEVELOPMENT, LOCATED AT 151 12TH STREET, BASED ON THE FINDINGS THAT THE REQUEST MEETS ALL FIVE CRITERIA FOR A VARIANCE. MOTION WAS SECONDED BY DR. ELSLEY AND PASSED UNANIMOUSLY, WITH ALL VOTING AYE.

Other Business: BZA Training

Ms. Katie Ellis, Assistant City Attorney, provided the board with training regarding when public comments are appropriate during BZA hearings. Explaining that an appeal is similar to a court hearing, she stated that public comment would not be appropriate in those cases. In reviewing variances, Ms. Ellis indicated that because one of the criteria for granting a variance is that it will not be contrary to the public interest, allowing public comment would be appropriate. Referring to the BZA rules, she reviewed the order of evidence and arguments to be followed in both appeals and variances.

Mr. Larsen expressed concern regarding the order to be followed for variances, referencing the order of public comment and staff presentations. Ms. Ellis recommended amending the rules to allow planning staff presentations prior to public comment and added that the chair would also have the authority to suspend the rules in the moment if necessary.

Mr. Simpson noted that people sometime attend via zoom and it's important for the chair to check if there are any public comments to be through that method. He also added that the intent of the BZA rules is to maintain order and civility. Referencing the Appeal Authority Handbook, Ms. Ellis commented that a good BZA is able to say no, when appropriate, and should make decisions based on law and good planning, rather than public sentiment or pressure.

New Business

Ms. Patrick informed the board that this would be her last meeting as Staff for the Board of Zoning Adjustment.

Damian Rodriguez introduced himself as the Planner who will be taking over as BZA Staff moving forward.

As there was no additional business before the Board, **DR. ELSLEY MOVED THE MEETING ADJOURN AT 4:58PM. MOTION WAS SECONDED BY MR. LARSEN, ALL VOTED AYE.**

Margae Martinson
Marqae Maftinson (Apr 26, 2024 15:51 MDT)

MARQAE MARTINSON
ADMINISTRATIVE ASSISTANT II

Charlie Casperson
[Charlie Casperson \(Apr 27, 2024 20:27 MDT\)](#)
CHARLES CASPERSON, CHAIR

APPROVED: 3/13/2024
(DATE)

This document in conjunction with the digital recording and information packet constitute the official minutes of the Ogden City Board of Zoning Adjustments.