A. CALL TO ORDER

B. ROLL CALL

C. Consider approval of the September 17, 2019 Board of Zoning Appeals meeting minutes.

General Announcement – The procedural rules for public comment will be as follows: The items will be taken in the order of the agenda. Audience members wishing to speak must be recognized by the Chairman and will have five minutes to address the Board of Zoning Appeals. No rebuttal remarks will be allowed.

D. OLD BUSINESS

E. NEW BUSINESS

<p>| | |</p>
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<tbody>
<tr>
<td>1.</td>
<td><strong>BZA 753-2019</strong>: Submitted by Russ &amp; Alicia Michaels for <strong>1053 Neal Crest Circle</strong>. The property is zoned R-2 and contains approximately .32 acres. The applicants request a variance from the rear setback requirements of the R-2 zoning district to construct a 15’x30’ deck with a 15’x15’ portion being covered and screened. Requested by Russ &amp; Alicia Michaels.</td>
</tr>
<tr>
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<td><strong>BZA 754-2019</strong>: Submitted by Robert Easley for <strong>3009 Davinci Court</strong>. The property is zoned R-2 and contains approximately .24 acres. The applicant requests a variance of from the rear setback requirements of the R-2 zoning district to construct a 13’x24’ patio cover. Requested by Robert Easley.</td>
</tr>
<tr>
<td>3.</td>
<td><strong>BZA 760-2019</strong>: Submitted by Paul Varney for <strong>Hometown Storage</strong>. The property is located at 4965 Lovell Lane, zoned C-1 and contains approximately 2.99 acres. The applicant is requesting an appeal of Article 13-Signs of the UDC and the decision of the Building Official and Planning Director than an off-premise sign is not permitted.</td>
</tr>
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<td>4.</td>
<td><strong>BZA 758-2019</strong>: Submitted by Angela Privett for <strong>5159 Main Street</strong>. The property is zoned C-4 and contains approximately 1.46 acres. The applicant requests a variance from Article 9.3 of the UDC to allow for a 200’x88’ fence in the corner side yard. Requested by Angela Privett.</td>
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<td>5.</td>
<td><strong>BZA 759-2019</strong>: Submitted by Rodney Reston for the <strong>Benevento</strong>. The property located at the corner of Hurt and Duplex Roads and is zoned R-2. The applicant requests a variance from the applicable sections of the UDC to allow a sign less than 5’ from the right-of-way and to install the letter “B” on the east facing columns between the property line of Benevento and Benevento East. Requested by the Benevento HOA.</td>
</tr>
</tbody>
</table>
6. **BZA 755-2019**: Submitted by Steve Bone for Lot 5 of Windstead Manor. The property is zoned R-2 and contains approximately .23 acres. The applicant requests a variance from the rear setback requirements of the R-2 zoning district to allow a single-family to encroach 15’. Request by Steve Bone.

7. **BZA 756-2019**: Submitted by Steve Bone for Lot 12 of Windstead Manor. The property is zoned R-2 and contains approximately .23 acres. The applicant requests a variance from the rear setback requirements of the R-2 zoning district to allow a single-family to encroach 15’. Request by Steve Bone.

8. **BZA 757-2019**: Submitted by Brinker International for 2000 Crossings Circle. The property is zoned C-5 and contains approximately 1.41 acres. The applicant requests a variance from the applicable sections of the Unified Development Code to allow the existing site landscaping and parking to remain as is. Requested by Mike Gabriel.

**F. OTHER BUSINESS**

1. 2020 Calendar

**G. PUBLIC COMMENT**

**H. ADJOURN**
SPRING HILL  
MUNICIPAL BOARD OF ZONING APPEALS  
REGULAR MEETING MINUTES  
TUESDAY SEPTEMBER 17, 2019  
5:30 PM  

A. CALL TO ORDER  
Chairman Terry Cantrell called the meeting to order at 5:35 PM.  

B. ROLL CALL  
Members present were: Chairman - Terry Cantrell, Vice Chairman - Rob Roten and Alderman - Hazel Nieves. Jim Hagaman and Brandon McCulloch were not in attendance.  

Staff present were: Planning Director - Steve Foote and Planning Assistant - Austin Page.  

C. Consider approval of the August 20, 2019 Board of Zoning Appeals meeting minutes.  
Alderman Hazel Nieves made a motion to approve the August 20, 2019 Meeting Minutes. Motion seconded by Vice Chairman Rob Roten. Motion passed 3-0.  

General Announcement – The procedural rules for public comment will be as follows: The items will be taken in the order of the agenda. Audience members wishing to speak must be recognized by the Chairman and will have five minutes to address the Board of Zoning Appeals. No rebuttal remarks will be allowed.  

D. OLD BUSINESS  

1. **BZA 731-2019**: Submitted by James Coffee for 2115 Deer Valley Drive. The property is zoned R-2, PUD and contains approximately .16 acres. The applicant requests a variance from the rear setback requirements of the Deerfield PUD to construct an 18’x27’ covered patio, with an enclosed 8’x18’ storage room. Requested by James Coffee.  

   **Staff conditions:**  
   1. The covered patio shall not be enclosed with any material.  
   2. The storage room siding needs to match the siding of the existing home.  
   3. The roof shall be covered with shingles that are similar to the existing shingles of the home.  
   4. Soffit and trim/accent materials including screen door shall be composed of materials that complement the primary dwelling including similar color(s).  
   5. Per Section 13.4G of the Unified Development Code, an approved variance will expire one year from the date of approval unless a site plan review application has been submitted or, where site plan review is not required, a building permit is obtained. The Board of Zoning Appeals may grant an extension for a period of validity for no longer than an additional 6 months, so long as the applicant applies in writing for an extension of time at any time prior to the date of expiration. No public hearing is required for approval of such extension of time.
Alderman Hazel Nieves made a motion to approve BZA 731-2019 with the five (5) staff conditions of approval. Motion seconded by Vice Chairman Rob Roten. Motion passed 3-0.

E. NEW BUSINESS

1. **BZA 744-2019**: Submitted by Eddie Lopez for 1008 Claymill Drive. The property is zoned R-2, PUD and contains approximately .22 acres. The applicant requests a variance from the rear setback requirements of the Wades Grove PUD to construct a 12’x22’ covered screened porch. Requested my Eddie Lopez.

   **Staff conditions:**
   1. The screened porch shall not be enclosed with any material other than screening.
   2. The roof shall be covered with shingles that are similar to the existing shingles of the home.
   3. Soffit and trim/accent materials including screen door shall be composed of materials that complement the primary dwelling including similar color(s).
   4. Per Section 13.4G of the Unified Development Code, an approved variance will expire one year from the date of approval unless a site plan review application has been submitted or, where site plan review is not required, a building permit is obtained. The Board of Zoning Appeals may grant an extension for a period of validity for no longer than an additional 6 months, so long as the applicant applies in writing for an extension of time at any time prior to the date of expiration. No public hearing is required for approval of such extension of time.

Alderman Hazel Nieves made a motion to approve BZA 744-2019 with the four (4) staff conditions of approval. Motion seconded by Vice Chairman Rob Roten. Motion passed 4-0.

F. PUBLIC COMMENT

No public comment

G. ADJOURN

Alderman Hazel Nieves made a motion to adjourn. Motion seconded by Vice Chairman Rob Roten. Motion to adjourn passed 3-0.

Meeting Adjourned at 5:53 PM.

Terry Cantrell, Chairman
Spring Hill Board of Zoning Appeals

TO: Spring Hill Board of Zoning Appeals
FROM: Steve Foote, AICP, Planning Director
        Austin Page, Associate Planner
MEETING: October 15, 2019
SUBJECT: BZA 753-2019 (1053 Neal Crest Circle)

BZA 744-2019: Submitted by Russ & Alicia Michaels for 1053 Neal Crest Circle. The property is zoned R-2 and contains approximately .32 acres. The applicants request a variance from the rear setback requirements of the R-2 zoning district to construct a 15'x30' deck with a 15'x15' portion being covered and screened. Requested by Russ & Alicia Michaels.

Property Description and History: 1053 Neal Crest Circle is located in the Wades Grove subdivision and is zoned R-2. Property to the west and south are zoned R-2, while property to the east is zoned R-4 and R-2 PUD to the north. The property has a front setback of 30’, side setback of 10’ and a rear setback of 25’. Additionally, the property has a 20’ PUDE along the eastern property line. This property has a unique shape the home is built directly up the rear setback. The southern and northern corners of the home are approximately 0’ from the rear setback and 25’ from the property line. Currently, there is an elevated 10’x10’ deck which was built with the home. The current deck encroaches 10’ into the rear setback. The property is adjacent to other residential and backs up to a wooded area with a stream. The home does not encroach into the 20’ wide stream buffer but the existing deck does by 5’. Nor the home or deck encroach into the 100-year or 500-year flood zone. The applicants have met with planning staff to discuss the Board of Zoning Appeals process and to ensure a complete application submitted.

Request: The applicants desire to demolish the existing 10’x10’ deck, rebuild a 15’x30’ deck and cover a 15’x15’ portion. The proposed deck will be elevated 4’ to match the height of the back door. This new proposal will increase the overall encroachment by 5’ from 10’ to 15’. The structure is proposed to be attached to the primary structure and is considered part of the primary structure for building setback purposes. The patio roof will use shingles to match the current home and have a 4/12 pitch out to a height of 8’. The applicants propose to use similar materials, colors and accents to match the current characteristics of the home.

According to the subdivision plat a 20’ wide stream buffer easement exists on the rear of the lot. The proposed and existing decks encroach into this buffer. Staff has not found a stream to justify this buffer other than Aenon Creek in the open space to the east. That identified creek would not place the stream buffer on the subject lot. Information to confirm that the stream buffer on the plat is incorrect and not required would be helpful.

Findings of Fact: The applicants have met UDC requirements regarding the U.S.P.S. First Class mailing of notices to all adjacent property owners of 1053 Neal Crest Circle and at least ten days in advance of the first scheduled action. City staff has placed notice in the newspaper and a sign on the subject property. The findings listed below are staff’s response to the approval standards required in Section 13.4.E of the UDC, to be considered by the Board of Zoning Appeals prior to approving a variance.

1. Where, by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of this Code, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property it is not able to comply with the regulations as required under this Code. The city receives many requests from property owners to cover existing patios and decks, and this has often times been considered a reasonable request, based on the facts of each individual situation and when the encroachment is limited. The home is built directly up to the rear setback and has provided zero room for patio to conform. Increasing the size of the deck by 5’ increases the encroachment into the drainage easement (PUDE) and the stream buffer. An approval letter from the Public Works Department and additional information on the...
stream buffer is essential to this review. With that information, a 15’ encroachment, while excessive, may be reasonable.

Per the applicants: We are requesting a variance for the setback to rear property line. The proposed deck would be 15’ from rear of house and property line is 25’.

2. The strict application of any provision enacted under this Code would result in peculiar and exceptional practical difficulties to or exception or place undue hardship upon the owner of such property. The subject property has a unique shape due to the boundary of the original subdivision and the position of the home prohibits any covered deck without a variance. If the BOZA believes that the additional depth represents an excessive encroachment, the width request should be considered.

Per the applicants: We would not be able to utilize our backyard space because setback consumes almost entire backyard which seems excessive.

3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this Code. The encroachment is along the rear of the property, which backs up to undeveloped land that is heavily wooded and contains a stream. Staff does not believe that the proposal will have a significant detrimental impact on the public good or surrounding property.

Per the applicants: We have a very private back yard with no neighbors visible in the rear of property and only neighbor visible on one side of property. We would be well outside of the 500-year flood zone on the map.

Recommendation: If the Board of Zoning Appeals finds the request to be reasonable and compliant with the requirements for a variance, staff recommends that they adopt the findings in this report or others to support the approval. Should the Board of Zoning Appeals approve BZA 753-2019, a building setback variance request for construction of a covered deck, subject to consistency with the submitted plans, staff recommends the following conditions:

1. Written approval by the Spring Hill Public Works Department for the encroachment into the drainage easement.
2. Written confirmation from the State of Tennessee or Public Works Department that the stream buffer does not apply to the lot as depicted on the subdivision plat.
3. The screened and covered deck shall not be enclosed with any material other than screening.
4. The roof shall be covered with shingles that are similar to the existing shingles of the home.
5. Soffit and trim/accents materials including screen door shall be composed of materials that complement the primary dwelling including similar color(s).
6. Per Section 13.4G of the Unified Development Code, an approved variance will expire one year from the date of approval unless a site plan review application has been submitted or, where site plan review is not required, a building permit is obtained. The Board of Zoning Appeals may grant an extension for a period of validity for no longer than an additional 6 months, so long as the applicant applies in writing for an extension of time at any time prior to the date of expiration. No public hearing is required for approval of such extension of time.
<table>
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<th>Approval Standards</th>
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| "The Board of Zoning Appeals may authorize a variance from the strict application of this Code so as to relieve such difficulties or hardship only in accordance with the following criteria. The Board of Zoning Appeals must make findings of fact on all criteria. Please initial all that apply."
| The application for a variance should provide the applicant's evidence that the application meets or exceeds the criteria below.
| "Where, by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of this Code, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property it is not able to comply with the regulations as required under this Code.
| We are requesting variance for setback to rear property line. The proposed deck would be 15' from rear of house and property line is 25'.
| The strict application of any provision enacted under this Code would result in peculiar and exceptional practical difficulties to or exception or place undue hardship upon the owner of such property.
| We would not be able to utilize our backyard space because setback consumes almost entire backyard which seems excessive.
| "Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this Code."
| We have a very private backyard with no neighbors visible in the rear of property and only one neighbor visible on one side of property. We would be well outside of the 500 year flood zone on map.

Applicant Name/Project: [Signature]

Russell Michaels, Alicia Michaels
1053 Nealcrest Spring Hill, 37174
Material List for Cedar Covered Deck 15x30:
- Framing will be 2X10s - 16” On Center
- 6x6 posts for structural support every 7 feet with 2x10 lagged to posts
- 5/4 Cedar Deck Boards
- 1x6 Cedar to wrap bottom of deck
- Handrails will be 2x4 and 2x6 cedar
- Spindles will be black steel spindles
- Deck floor will be approximately 4 ft high to match back door elevation.

Roof over Deck Screened in:
- Structural posts to hold shed roof will be 6x6 cedar
- Framing is 2x8 rafters every 16” on center
- 1x6 tongue and groove cedar on bottom of rafters to finish space
- Roof will be shingled to match existing roof of house
- Electrical will be installed for ceiling fans and outlets per code
- Screen will be a pool and patio screen with screen – tight system.
BZA 744-2019: Submitted by Robert Easley for 3009 Davinci Court. The property is zoned R-2 and contains approximately .24 acres. The applicant requests a variance of from the rear setback requirements of the R-2 zoning district to construct a 13’x24’ patio cover. The patio cover will be 18’ from the rear property line and encroach 7’ into the required 25’ setback. Requested by Robert Easley.

Property Description and History: 3009 Davinci Court is located in the Brixworth subdivision. The subject property is zoned R-2 and all surrounding properties are also zoned R-2. The property has a front yard setback of 30’, side yard setback of 10’ and a rear yard setback of 25’. Additionally, the property has a 10’ PUDE in the front, rear and 5’ PUDE on the sides. Due to this property being in a cul-de-sac, the lot has a unique shape and the home is built 27’ from the property line. The northwest corner of the home is approximately 6’ from the rear setback and approximately 31’ from the property line. The southwest corner of the home projects out 4’ further and is 2’ from the rear yard setback and 27’ from the property line. There is an existing concrete patio that is approximately 13’x32’. The existing patio encroaches less than half of the rear setback is allowed in accordance to Table 9-1 of the UDC. The concrete patio encroaches 7’. The property is adjacent to other residential properties and does not have a fenced in yard. The applicant met with planning staff to discuss the Board of Zoning Appeals process and to ensure a complete application submitted.

Request: The applicant desires to install an insulated aluminum patio cover a 13’x24’ portion of the existing 13’x32’ concrete patio, leaving an additional 8’ uncovered. The proposed screened porch will not increase the overall encroachment of 7’ or reduce the distance to the property lines. The structure is proposed to be attached to the primary structure and is considered part of the primary structure for building setback purposes. The proposed screened porch is 9’ in height at the connection to the home and angles downward to a height of 8’. The applicant proposes to use an insulated aluminum patio cover that is white in color and matches the current characteristics of the home.

Findings of Fact: The applicant has met UDC requirements regarding the U.S.P.S. First Class mailing of notices to all adjacent property owners of 3009 Davinci Court and at least ten days in advance of the first scheduled action. City staff has placed notice in the newspaper and a sign on the subject property. The findings listed below are staff’s response to the approval standards required in Section 13.4.E of the UDC, to be considered by the Board of Zoning Appeals prior to approving a variance.

1. Where, by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of this Code, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property it is not able to comply with the regulations as required under this Code. *The city receives many requests from property owners to cover existing patios and decks, and this has been considered a reasonable request, based on the facts of each individual situation and when the encroachment is limited. The size of the lot and positioning of the home creates a situation where the typical patio cover does not fit on the lot. At its closest, the home is built 2’ from the rear setback and does give an appropriate amount of space to comply with the standards of the UDC. The applicant is covering a portion of the existing patio and is not increasing the encroachment. Staff finds an encroachment of 7’ to be minor.*

*Per the applicant:* The lot is irregular in this dead-end cul-de-sac making an exceptional situation to the normal back yard.
2. The strict application of any provision enacted under this Code would result in peculiar and exceptional practical difficulties to or exception or place undue hardship upon the owner of such property. **The subject property has a unique shaped lot, with the front of the lot being much narrower than the rear.** Such lots typically have the home further back on the lot and in this case, approximately 2' from the rear yard setback. Denying a reasonable sized rear patio and cover can create a practical difficulty to a property owner seeking the reasonable use of their property.

**Per the applicant:** The home owner is trying to enhance and utilize his back-yard area.

3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this Code. **The home backs up to other properties rear yards and a number of adjacent properties have covered patios. Staff does not believe that the proposal will have a significant detrimental impact on the public good or surrounding property.**

**Per the applicant:** There is no public detriment. The homeowners back and side yard neighbor have covered patios. The rear of this home faces the western heat of the sun.

**Recommendation:** If the Board of Zoning Appeals agrees with staff's findings and determines that the requested variance is acceptable, staff recommends that the Board of Zoning Appeals adopt the findings of fact found in this report and approve BZA 754-2019, a building setback variance request for construction of a screened patio, subject to consistency with the submitted plans and the following conditions:

1. The covered patio shall not be enclosed with screen or any other material.
2. Per Section 13.4G of the Unified Development Code, an approved variance will expire one year from the date of approval unless a site plan review application has been submitted or, where site plan review is not required, a building permit is obtained. The Board of Zoning Appeals may grant an extension for a period of validity for no longer than an additional 6 months, so long as the applicant applies in writing for an extension of time at any time prior to the date of expiration. No public hearing is required for approval of such extension of time.
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| There is no public detriment. Home owner's back + side yard Neither have        | RE|
| covered patio areas. The rear of this house faces the western heat of the sun.   |   |

Applicant Name/Project: Robert Snoddy / hadd
3009 Quimby Dravt
Thompson Station, TN
MINIMUM BLDG. SETBACKS

FRONT YARD.............30'
SIDE YARD..............10'
REAR YARD...............20'
25 STAKE ON E

THIS PLOT PLAN HAS BEEN PREPARED WITHOUT THE BENEFIT OF A SITE
INSPECTION OR TITLE REPORT. THEREFORE
THIS PLOT PLAN IS SUBJECT TO AN
ACCURATE AND UP TO DATE TITLE
REPORT. THIS PLOT PLAN IS NOT
REPRESENTATIVE OF A BOUNDARY SURVEY
BY DELTA ASSOCIATES.

PLOT PLAN

HOUSE: VINGATE/4S/RHFE/GRT RM EXT./PATIO
Owner: PULTE
Property Address: 3009 DA VINCI COURT
Property Location: BRENTWOOD PH.2, SEG. 2 LOT #167
Property: SPRING HILL WILLIAMSON CO., TN
Recorded: PLAT BKG: P62 PG6, R.O.W.C., TN.
Scale: 1"=20' Date: 4-13-16 Cadence, BRX1672.

Delta Associates, Inc.
Land Survey & Engineering
7121 Cheyenne Blvd., Brentwood, TN 615-850-5301
Patio Plus
Screen & Sunrooms, Carports, Patio Covers,
Siding & Window Specialist - Est. 1979

241 wide

3" Thick Insulated Aluminum
Patio Cover

with Regula Rafter Tails

For: Jonathan & Jennifer Ladd
3009 Davinci Court
Thompson Station, TN
615-275-2201

#10,409 complete

Includes:
* Variance & Permit Fees.
* All Fawcet & Electrician Fees.
* Sante & Regula Rafter Tail Packages.
* Insulated Aluminum Patio Cover Installed with 4" x 4" Fluted Aluminum Rafter & Beam.

By: Robert Easley
Patio Plus

2632 Pulaski Hwy.
P.O. Box 164
Columbia, Tennessee 38402
Office: 931-381-0411
Fax: 931-381-1794
www.patioplushomeimprovements.com
Example of Insulated Aluminum Patio Cover
BZA 760-2019: Submitted by Paul Varney for Hometown Storage. The mini-storage facility is located at 4965 Lovell Lane, zoned C-1 and contains approximately 2.99 acres. The applicant is requesting an appeal of Article 13-Signs of the UDC and the decision of the Building Official and Planning Director that an off-premise sign is not permitted.

Property Description and History: Hometown Storage is located at 4965 Lovell Lane, east of the Kroger on Port Royal road. The subject property is zoned C-1, Neighborhood commercial district and contains approximately 2.99 acres. The surrounding properties are zoned R-2 to the north, C-1 to the east, I-1 to the south and R-2 to the west. The site was annexed in 2016. Rezoning of the site was approved by the Board of Mayor and Alderman in January 2018 and a site plan for the storage use was approved by the Planning Commission in July 2018.

The applicant met with planning staff to discuss the Board of Zoning Appeals process and to ensure a complete application submitted.

Request: The applicant also previously requested the above-mentioned rezoning, use on appeal, and site plan requests through the City of Spring Hill. As a result, Hometown Storage has been constructed and is open for business. The applicant recently installed two signs to advertise the location of Hometown Storage. One, a 7-foot-high 32 sq. ft. sign was installed on the west side of Port Royal Road across from Lovell Lane. A second sign was installed on Lovell Lane north of Kroger’s. He was contacted by the city’s Codes Department who informed the applicant that the signs were not permitted. The applicant is appealing the decision of the Building Official and Planning Director.

Analysis: The City’s Building Official is charged with the responsibility of administering and enforcing the city’s sign regulations. The Building Official reviewed the regulations applicable to the installed sign and made the following determination.

The subject sign is considered an “Off Premise Sign” for Hometown Storage located at 4965 Lovell Lane. The definition for this type of sign is below.

**Sign, Off-Premise Commercial – Permanent.** A permanent commercial sign directing attention to a specific business, product, service, entertainment event, activity, or other commercial activity that is not sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located. Also called a billboard.

Most signs in Spring Hill are “on-site” advertising signs that convey a message for a business or activity that is conducted or located on the subject site where the sign is located. The Unified Development Code does not have any provisions to allow a Permanent Off Premise Sign for a Commercial Business, with the exception of Billboards, which are permitted with restrictions on the location. See Article below

**Article 12.8 (B).** Billboards are permitted only within 660 feet of the nearest edge of Interstate 65 on properties zoned industrial or commercial districts.

BZA 760-2019 (Hometown Storage)
The Unified Development Code also contains the following provision for Temporary Off Premise Signage.

Article 12.5 (10) Off-Premise Commercial Signs – Temporary

Such signs must be installed on private property. Temporary off-premise commercial signs may not be erected before Noon on Friday and must be removed no later than Noon the following Monday. In the event that Friday is a nationally recognized holiday, the signs may be erected on Thursday after Noon. In the event that Monday is a nationally recognized holiday, the weekend directional signs may remain in place until Tuesday by Noon.

During the review of the prior development requests it was understood that the site was remote and located on an unimproved road that provided access for individual homes and a cemetery. Although some improvements were made to accommodate the use of the site, the site is located well off the main roadway, Port Royal Road.

Signs are considered uses of a property. A variance cannot be used to permit the sign in question. Section 13.4 of the Unified Development Code states the following with regards to the issuance of a variance:

F. Limitations
1. In granting variances, the Board of Zoning Appeals has no power to take any action that has the effect of allowing a use that is prohibited in the applicable base or overlay district. Any such action that has is deemed a violation of powers of this section and has no force and effect.

Therefore, this request is being processed as a Zoning Appeal. Article 13.10 of the UDC guides an appeal decision. The BOZA is required to evaluate the application based on the evidence presented at the public hearing (which includes this report) and then render a decision to confirm or overturn the decision of staff. City staff has placed notice in the newspaper and a sign on the subject property. As part of the appeal application, staff requested from the applicant a narrative explaining their points of disagreement with staff’s decision and why they believe that staff’s interpretation of the sign code is incorrect. The applicant will present this information at the meeting.

Findings of Fact: Based on the clear language in the UDC (included above) regulating and prohibiting off-site commercial signs (that do not meet the criteria of a billboard), including definitions and restrictions, staff recommends that the Board of Zoning Appeals confirm the decision of staff to deny the requested signs.
Spring Hill Board of Zoning Appeals

TO: Spring Hill Board of Zoning Appeals
FROM: Steve Foote, AICP, Planning Director
      Austin Page, Associate Planner
MEETING: October 15, 2019
SUBJECT: BZA 758-2019 (5159 Main Street)

BZA 758-2019: Submitted by Angela Privett for 5159 Main Street. The property is zoned C-4 and contains approximately 1.46 acres. The applicant requests a variance from Article 9.3.J.2 of the UDC to construct an 88’x200’ fence in the corner side yard of the property. Requested by Angela Privett.

Property Description and History: 5159 Main Street is located northwest of the Main Street and Miles Johnson Parkway intersection. The subject property is zoned C-4 and is bordered by C-4 properties to the north, east and west. Property to the south is zoned PR. The property is long and narrow, with the existing building located toward the northern portion of the property leaving an abnormally large corner side yard. The existing structure is approximately 375’ from the corner side yard property line (Miles Johnson Parkway). Majority of the property is in the flood zone and explains why only the northern portion of the property is developed. The existing structure is approximately 55’ form the rear (west) property line. The applicant has met with staff on numerous occasions to discuss updates to the site. The applicant is performing a number of cosmetic changes to the existing structure and updating the parking lot. Additionally, the applicant met with planning staff to discuss the Board of Zoning Appeals process and to ensure a complete application submitted.

Request: The applicant is the current renter of the building on this property. They are making improvements to the property and plan to open an insurance office and café on the property soon. As a part of the use of the site, the applicant also wishes to hold occasional temporary uses/events on the site. They are currently processing a temporary event application through the city for a fall festival. The proposed fence will be used for future events.

The applicant desires to construct an 88’x200’ fence enclosure in the corner side yard of the property. The fencing will be a 3-row wood and painted white to match with the theme of Spring Hill and surrounding properties. The fence will have a 20’ gate on the north end which will allow access into the fenced area. The UDC prohibits fences within the front and corner side yards for commercial property. The applicant is also proposing a 40’x40’ fenced in area in the interior side yard, but that fence is permitted and does not require a variance.

Findings of Fact: The applicant has met UDC requirements regarding the U.S.P.S. First Class mailing of notices to all adjacent property owners of 5159 Main Street at least ten days in advance of the first scheduled action. City staff has placed notice in the newspaper and a sign on the subject property. The findings listed below are staff’s response to the approval standards required in Section 13.4.E of the UDC, to be considered by the Board of Zoning Appeals prior to approving a variance.

1. Where, by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of this Code, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property it is not able to comply with the regulations as required under this Code. The city does not receive many variance applications for commercial properties and has not seen one recently regarding fencing. The applicant is not building the fence up to the property lines and has left an appropriate amount of space for the future R/W of Main Street. The property is not able to comply with the UDC because fencing in the corner side yard is not allowed in commercial districts. The applicant is allowed to place fencing in the interior side yard but does have enough space for the amount of fencing that is proposed. The property across the street has the same zoning of C-4 and has a similar style 3-row wood style fence. The applicant
has the ability to place temporary fencing in the area for each temporary event that may be scheduled. That said, it may be preferred to use temporary fencing and place this restriction in the UDC on the list for future amendments. In that way the subject can be considered in light of the entire code.

2. The strict application of any provision enacted under this Code would result in peculiar and exceptional practical difficulties to or exception or place undue hardship upon the owner of such property. The subject property is quite shallow but is extremely wide (approximately 125’x525’). With majority of the property being in a flood zone, the structure is built to the northern portion of the property only leaving an interior side yard of approximately 90’, with 50’ of that being pavement. Article 9.3.I.2 does states that fencing is prohibited in the corner side yard. The applicant has the ability to install temporary fencing for events.

3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this Code. Staff does not believe that the proposal will have a significant detrimental impact on the public good or surrounding property. There are other commercial zoned properties in the area that have a similar style fencing.

Recommendation: If the Board of Zoning Appeals finds that the request is reasonable and meets the requirements for approving a variance, staff recommends that the Board of Zoning Appeals adopt the findings of fact found in this report or similar findings to support the approval of BZA 758-2019, a variance request for construction of a fence in the corner side yard, subject to consistency with the submitted plans and the following conditions:

1. The fencing shall not be any larger than the proposed dimensions of 88’x200’.
2. Per Section 13.4G of the Unified Development Code, an approved variance will expire one year from the date of approval unless a site plan review application has been submitted or, where site plan review is not required, a building permit is obtained. The Board of Zoning Appeals may grant an extension for a period of validity for no longer than an additional 6 months, so long as the applicant applies in writing for an extension of time at any time prior to the date of expiration. No public hearing is required for approval of such extension of time.
Fence Proposal
Approximately 570' to 580' total

40' x 40' fence for playground area
160' total

Small walk through gate
BZA 759-2019: Submitted by Rodney Reston for the Benevento HOA. The subdivision and the two lots (80 and 81) in question are zoned R-2. The applicant requests a variance from the following sections of the Unified Development Code to allow the proposed signs and/or an appeal that the fence and letter “B” does not constitute a sign. Requested by Rodney Reston.

- **Article 12.6.D.5**: A minimum of 100’ is required between signs.
- **Article 12.6.D.6**: Landscaping is required at the base of the sign.
- **Article 12.6.D.2**: A minimum 5’ setback is required.
- **Article 9.3.J**: Maximum height of a fence in the street/front yard is 36”

**Property Description and History:** The subject sites are two lots within the Benevento Subdivision. These lots fall on the border with Benevento East. The HOA has secured easements on the two lots for the purpose of installing two monuments/columns (constructed) and placing the letter “B” on them. Similar monuments are constructed further south on Maleventum Way at the intersection of Hurt Road. Short sections of fencing are proposed on the back side of the monuments. The monuments and fence is used elsewhere within the subdivision.

**Request:** The applicant is seeking approval to allow the two monuments and associated fencing on Lots 80 and 81. The applicant originally focused on asking for an appeal of the decision of the administrative officer of the city that the monuments with the letter “B” are not signs. The definition of a sign is as follows:

-Sign. A lettered, numbered, symbolic, pictorial, or illuminated visual display designed to identify, announce, direct, inform or promote a business, service, or the sale of a product.

Staff believes that the requested work qualifies as a sign. Additionally, even if the Board of Zoning Appeals found in favor with the applicant, variances would still be required for the height of structures. That said, the remainder of this report addresses the requested improvements from the standpoint of a variance request.

1. **Article 12.6.D.5.** A minimum of 100’ is required between signs.
   The proposal includes two monuments, one on either side of the street. Given that the street is a 50’ right-of-way the two signs are less than 100 feet apart. Staff believes that this requirement was possibly intended to apply to signs on the same side of the street. Most subdivisions have entry signs at both sides of an entrance and they would rarely if ever meet this requirement.

2. **Article 12.6.D.6.** Landscaping is required at the base of the sign.
   The two monuments are consistent with those installed elsewhere in the subdivision. None of those monuments include landscaping. The stone monument is considered decorative by design.

3. **Article 12.6.D.2.** A minimum 5’ setback is required.
   The current requirement in the UDC is for these signs to be a minimum of 5 feet from the right-of-way line. The subject monuments are between two and three feet from the right-of-way. The location does not create a hazard for users on the sidewalk or an obstruction of visibility. The location of the monuments is consistent with previously installed monuments built under the prior code.
4. Article 9.3J. Maximum height of a fence in the street/front yard is 36”

The maximum height of fences and walls in the subject area is 36”. The proposed monuments are approximately 65-70” high and fencing is 54” high. This height is consistent with other monuments. Fencing installed in the subdivision is generally along the perimeter of the subdivision along exterior streets where homes back up to the road.

Findings of Fact: The applicant has met UDC requirements regarding the U.S.P.S. First Class mailing of notices to all adjacent property owners of Lot 80 and 81 at least ten days in advance of the first scheduled action. City staff has placed notice in the newspaper and a sign on the subject property. The findings listed below are staff’s response to the approval standards required in Section 13.4.E of the UDC, to be considered by the Board of Zoning Appeals prior to approving a variance.

1. Where, by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of this Code, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property it is not able to comply with the regulations as required under this Code. The request completes the placement of monuments for Benevento. The subdivision was approved under the old zoning ordinance and other signs installed under the former regulations. The sign locations are somewhat different in that they are not recommended at an intersection to the development, but between adjacent residential lots. While staff believes the monuments represent a reasonable request, the height requested for the fence is more difficult to justify. The fence is permissible if held to a maximum of 36”.

   Per the applicant: The topographic grade that exists on Lot 80 does not accommodate the strict adherence of a setback requirement from the property line and right of way for a decorative masonry column.

2. The strict application of any provision enacted under this Code would result in peculiar and exceptional practical difficulties to or exception or place undue hardship upon the owner of such property. The Benevento subdivision may not have considered the installation of monuments at the subject locations until after the development of the adjacent homes in Benevento East. The HOA desires to delineate the entrance into the subdivision from adjacent neighborhoods. Staff believes that the monument height and mass is reasonable and attractive, and thereby will not have an adverse impact on adjacent property.

   Per the applicant: A perimeter fence with decorative masonry columns was previously constructed in 2017 at a different location on Maleventum Way. Requiring strict adherence to setback and landscaping requirements of UDC Article 12, by adding a decorative letter “B” to the columns, would cause exceptional hardship in keeping a consistent appearance of the perimeter fence.

3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this Code. The two monuments have been 90% constructed. Staff has not received any negative comments about them. As mentioned above, the appear to fit and blend into the neighborhood. Staff recommends that the fencing be restricted to the code maximum of 36”.

   Per the applicant: As previously stated, other provisions of the UDC specifically contemplate and permit perimeter boundary fences to be located on the lot line (UDC Article 9.3.J.1.g). Additionally, this request for a variance would permit the Benevento HOA to construct a fence that is consistent with the existing fence constructed in 2017.

Recommendation: If the Board of Zoning Appeals agrees with staff’s findings and determines that the requested variances are acceptable, staff recommends that the Board of Zoning Appeals adopt the findings of fact found in this report and approve BZA 759-2019, for the construction of subdivision monument signs, to waive landscaping and separation requirements as described herein and on Exhibit A. Fencing not to exceed a maximum height of 36”.
1. Per Section 13.4G of the Unified Development Code, an approved variance will expire one year from the date of approval unless a site plan review application has been submitted or, where site plan review is not required, a building permit is obtained. The Board of Zoning Appeals may grant an extension for a period of validity for no longer than an additional 6 months, so long as the applicant applies in writing for an extension of time at any time prior to the date of expiration. No public hearing is required for approval of such extension of time.
Consistency to approval standard provided under UDC Article 13.4.E:
The Benevento HOA Board submits the following approval standards under UDC Article 13.4,E for consideration to the Board of Zoning Appeals:

"1. Where, by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of this Code, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property it is not able to comply with the regulations as required under this Code."
Source: Spring Hill Uniform Development Code, Article 13.4.E.1

The topographic grade that exists on Lot 80 does not accommodate the strict adherence of a setback requirement from the property line and right of way for a decorative masonry column.

"2. The strict application of any provision enacted under this Code would result in peculiar and exceptional practical difficulties to or exception or place undue hardship upon the owner of such property."
Source: Spring Hill Uniform Development Code, Article 13.4.E.1

A perimeter fence with decorative masonry columns was previously constructed in 2017 at a different location on Maleventum Way. Requiring strict adherence to setback and landscaping requirements of UDC Article 12, by adding a decorative letter “B” to the columns, would cause exceptional hardship in keeping a consistent appearance of the perimeter fence.
"3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this Code."
Source: Spring Hill Uniform Development Code, Article 13.4.E.1

As previously stated, other provisions of the UDC specifically contemplate and permit perimeter boundary fences to be located on the lot line (UDC Article 9.3.J.1.g). Additionally, this request for a variance would permit the Benevento HOA to construct a fence that is consistent with the existing fence constructed in 2017.

We respectfully request the Board to grant our request of an appeal of the determination that adding a letter “B” to a masonry column, otherwise qualifying as a fence, would be considered a Sign, requiring a Sign Permit. If it is determined that the masonry columns constitute a sign, we submit that a variance is warranted and within the approval standards of the Board’s ability to issue such variances to UDC Article 12 as may be required to permit the construction of the fence located along the property line and without additional landscape requirements.

Sincerely,

The Benevento Homeowners Association Board of Directors

Attachments
Benevento Entrance Feature
Maleventum Way at Benevento East boundary
1. All distances are based on a field run survey using EOD equipment and have been adjusted for temperature.

2. Elevations shown on this map are referenced to the site bench mark and as indicated on this plat of record at plat book 45 page 129.

This survey is not a general property survey as defined under rule 0820-3-07.
1. All distances are based on a field run survey using EDM equipment and have been adjusted for temperature.

2. Elevations shown on this map are referenced to the site bench mark and as indicated on this plat of record at plat book 45 page 129, R.O.C.

3. Boundary lines, setbacks, and utilities as shown, have been obtained from plat of record in book 4-5 page 129, R.O.W.C.

This survey is not a general property survey as defined under rule 0609-09-07.

Parcels: All distances are based on a field run survey using EDM equipment and have been adjusted for temperature.

Elevations shown on this map are referenced to the site bench mark and as indicated on this plat of record at plat book 45 page 129, R.O.C.

Boundary lines, setbacks, and utilities as shown, have been obtained from plat of record in book 4-5 page 129, R.O.W.C.

This survey is not a general property survey as defined under rule 0609-09-07.

Harrah Associates
Surveyors + Planners
1503 Middle George Patton
Prattville, AL 36067
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Fax: 334-359-3737
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SITE PLAN
LOT 81 BENEVENTO SUBDIVISION PHASE 2
4001 CAMPA NIA WAY
SPRING HILL, WILLIAMSON CO., TENNESSEE
DEED BOOK 5965 PAGE 408, R.O.W.C.
for
BARLOW BUILDERS

Legend:
- N.R.A.
- H.O.C.
- Public utility or drainage easement
- Field spot elevation
- Existing contours
- Imposed contours

Graphic Scale: 1" = 20'
TO: Spring Hill Board of Zoning Appeals  
FROM: Steve Foote, AICP, Planning Director  
        Austin Page, Associate Planner  
MEETING: October 15, 2019  
SUBJECT: BZA 755-2019 (Windstead Manor Lot 5)

**BZA 755-2019**: Submitted by Steve Bone for Lot 5 of Windstead Manor. The property is zoned R-2 and contains approximately .24 acres. The applicant requests a variance from the rear setback requirements of the R-2 zoning district of 25'. If approved, the variance will reduce the rear yard setback from 25 to a minimum of 10 feet for construction of a single-family residence. Request by City of Spring Hill for Steve Bone.

**Property Description and History**: Lot 5 is located at 1017 Cantwell Place. The property contains .24 acres and is zoned R-2, Single-Family District. All surrounding properties are also zoned R-2, Single-Family District. A final plat for Windstead Manor was approved by the Planning Commission on February 12, 2018. The plat included a note identifying the setbacks as 30' front, 10' side, and 25' rear. The plat face had setback lines drawn on each lot and showed a 10 setback on the west side of Lot 5. No property line was specifically identified with a 25' rear setback. Under the old zoning ordinance, the code prescribed that once the front was determined a rear setback of 25' was required for the lot line opposite the front setback line.

The applicant purchases the lots following approval of the subdivision and has stated he designed a floor plan to fit the setbacks for Lot 5. Upon submitting for building permits the applicant was informed of the required 25' setback requirement and the permit request was denied.

The applicant has talked with staff to discuss the Board of Zoning Appeals process and to ensure a complete application submitted.

**Request**: The applicant requests a variance to reduce the required 25' rear yard setback on the west property line to 10' (the normal side yard setback) for the purpose of constructing a single-family residence on the lot. The applicant requests the ability to construct a home on the lots subject to the setbacks shown on the plat approved by the Planning Commission.

**Findings of Fact**: The applicant has met UDC requirements regarding the U.S.P.S. First Class mailing of notices to all adjacent property owners of 1017 Cantwell Place at least ten days in advance of the first scheduled action. City staff has placed notice in the newspaper and a sign on the subject property. The findings listed below are staff’s response to the approval standards required in Section 13.4.E of the UDC, to be considered by the Board of Zoning Appeals prior to approving a variance.

1. Where, by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of this Code, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property it is not able to comply with the regulations as required under this Code. *Lot 5 is typical in depth and width to other lots in the area. However, when the side setback of 30’ is applied the footprint of the buildable area is reduced to approximately 2,349 sq. ft. This is not necessarily small for a ground floor, but appears to be significantly smaller than some of the other buildable footprints.*
2. The strict application of any provision enacted under this Code would result in peculiar and exceptional practical difficulties to or exception or place undue hardship upon the owner of such property. **The subdivision contains large footprint homes. Requiring the 25’ setback per the zoning ordinance would impact the ability to construct one of the applicant’s standard homes on the subject lot. A home would need to be designed specifically to fit on this lot.**

3. **Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this Code. Determining the impact on the public good can be somewhat subjective. As notice is required to adjoining property owners, another consideration is the impact on immediately adjacent property. While there may be an impact on immediately adjacent property, an impact on the overall community is not expected. Notices have been sent to the adjacent lot owners.**

**Per the applicant:** On behalf of Grandview Custom Homes, LLC., owner at 1015 and 1017 Cantwell Place, I, Steve Bone, am submitting a request to encroach 15 feet on the rear yard setbacks for the construction of two single family homes. My request is made on the following bases:

1) **Consistency with the rest of the subdivision:** As the lots are drawn, honoring the 25’ rear setback lines will not allow for the construction of a home consistent with the size and quality of the rest of the homes in Windstead Manor. Building to this footprint will disrupt the continuity of the neighborhood.

2) Financial hardship: I have commissioned the design of two new building/floor plans specifically for these two lots. These two plans were designed, to fit the building envelope as it appears on the currently approved SP, by well-respected designers and cost roughly $6,000 each. A previous mix-up with the city regarding the approved plats cost over $9,000 in landscaping on lots 1, 15, and 16. This delay, combined with all the others, has cost months’ worth interest on my construction loan. Additionally, building to a footprint with a 25’ rear setback will not only diminish the value of the homes on these lots, but all the surrounding homes.

3) Previous confusion regarding plats: At the time I purchased the Windstead Manor lots, the Final SP had been approved by the city with incorrect lot lines. The SP has since been resubmitted three times to adjust for errors made by both the developer and the city. Prior to the approval of the current SP, I personally discussed the building envelopes with Chris Brooks who did not have any concern with the rear setback. Through this process, I have been very patient, and even accommodated non-recorded PUDEs. The current set of approved plans uses the building envelopes we are requesting. Thus, we are not asking for a revision to the existing plans, but for the city to honor the plans that they have already approved.

**Recommendation:** If the Board of Zoning Appeals determines that the request meets the requirements for a variance, staff recommends that the Board of Zoning Appeals adopt the findings of fact found in this report, or other findings, and approve BZA 755-2019, variance request for construction of a single family residence on Lot 5 of the Windstead Manor subdivision, reducing the required rear setback to a minimum of 10’ as shown, and subject to consistency with the submitted plans and the following conditions:

1. **Per Section 13.4G of the Unified Development Code, an approved variance will expire one year from the date of approval unless a site plan review application has been submitted or, where site plan review is not required, a building permit is obtained. The Board of Zoning Appeals may grant an extension for a period of validity for no longer than an additional 6 months, so long as the applicant applies in writing for an extension of time at any time prior to the date of expiration. No public hearing is required for approval of such extension of time.**
BZA 756-2019: Submitted by Steve Bone for Lot 12 of Windstead Manor. The property is zoned R-2 and contains approximately .23 acres. The applicant requests a variance from the rear setback requirements of the R-2 zoning district of 25'. If approved, the variance will reduce the rear yard setback from 25 to a minimum of 10' for construction of a single-family residence. Request by City of Spring Hill for Steve Bone.

Property Description and History: Lot 12 is located in the Windstead Manor subdivision at 1015 Cantwell Place. The property contains .23 acres and is zoned R-2, Single-Family District. All surrounding properties are also zoned R-2, Single-Family District. A final plat for Windstead Manor was approved by the Planning Commission on February 12, 2018. The plat included a note identifying the setbacks as 30' front, 10' side, and 25' rear. The plat face had setback lines drawn on each lot and showed a 10 setback on the west and south side of Lot 12. No property line was specifically identified with a 25' rear setback. Under the old zoning ordinance, the code prescribed that once the front was determined a rear setback of 25' was required for the lot line opposite the front setback line.

The applicant purchases the lots following approval of the subdivision and has stated he designed a floor plan to fit the setbacks for Lot 12. Upon submitting for building permits the applicant was informed of the required 25' setback requirement and the permit request was denied.

The applicant has talked with staff to discuss the Board of Zoning Appeals process and to ensure a complete application submitted.

Request: The applicant requests a variance to reduce the required 25' rear yard setback on the south property line (adjacent to Lot 11) to 10' (the normal side yard setback) for the purpose of constructing a single-family residence on the lot. The applicant requests the ability to construct a home on the lots subject to the setbacks shown on the plat approved by the Planning Commission.

Findings of Fact: The applicant has met UDC requirements regarding the U.S.P.S. First Class mailing of notices to all adjacent property owners of 1015 Cantwell Place at least ten days in advance of the first scheduled action. City staff has placed notice in the newspaper and a sign on the subject property. The findings listed below are staff's response to the approval standards required in Section 13.4.E of the UDC, to be considered by the Board of Zoning Appeals prior to approving a variance.

1. Where, by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of this Code, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property it is not able to comply with the regulations as required under this Code. Lot 12, being a corner lot and cul-de-sac lot, is significantly reduced in lot depth compared to adjacent lots. Also, the requirement under the old zoning ordinance for a 30' front setback on all street frontages further reduces the buildable area of the lot. The applicant is not requesting approval to adjust the 30' setback from the street, therefore, the alignment of homes on both Spruce Ridge and Cantwell Place will remain intact. The lot shape is also more pie shaped than a normal rectangular shape.
2. The strict application of any provision enacted under this Code would result in peculiar and exceptional practical difficulties to or exception or place undue hardship upon the owner of such property. The subdivision contains large footprint homes. Requiring the 25’ setback per the zoning ordinance would impact the ability to construct one of the applicant’s standard homes on the subject lot. A home would need to be designed specifically to fit on this lot.

3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this Code. Determining the impact on the public good can be somewhat subjective. As notice is required to adjoining property owners, another consideration is the impact on immediately adjacent property. While there may be an impact on immediately adjacent property, an impact on the overall community is not expected. Notices have been sent to the adjacent lot owners.

Per the applicant: On behalf of Grandview Custom Homes, LLC., owner at 1015 and 1017 Cantwell Place, I, Steve Bone, am submitting a request to encroach 15 feet on the rear yard setbacks for the construction of two single family homes. My request is made on the following bases:

1) Consistency with the rest of the subdivision: As the lots are drawn, honoring the 25’ rear setback lines will not allow for the construction of a home consistent with the size and quality of the rest of the homes in Windstead Manor. Building to this footprint will disrupt the continuity of the neighborhood.

2) Financial hardship: I have commissioned the design of two new building/floor plans specifically for these two lots. These two plans were designed, to fit the building envelope as it appears on the currently approved SP, by well-respected designers and cost roughly $6,000 each. A previous mix-up with the city regarding the approved plats cost over $9,000 in landscaping on lots 1, 15, and 16. This delay, combined with all the others, has cost months’ worth interest on my construction loan. Additionally, building to a footprint with a 25’ rear setback will not only diminish the value of the homes on these lots, but all the surrounding homes.

3) Previous confusion regarding plats: At the time I purchased the Windstead Manor lots, the Final SP had been approved by the city with incorrect lot lines. The SP has since been resubmitted three times to adjust for errors made by both the developer and the city. Prior to the approval of the current SP, I personally discussed the building envelopes with Chris Brooks who did not have any concern with the rear setback. Through this process, I have been very patient, and even accommodated non-recorded PUDEs. The current set of approved plans uses the building envelopes we are requesting. Thus, we are not asking for a revision to the existing plans, but for the city to honor the plans that they have already approved.

Recommendation: If the Board of Zoning Appeals determines that the request meets the requirements for a variance, staff recommends that the Board of Zoning Appeals adopt the findings of fact found in this report, or other findings, and approve BZA 756-2019, variance request for construction of a single family residence on Lot 12 of the Windstead Manor subdivision, reducing the required rear setback to a minimum of 10’ as shown, and subject to consistency with the submitted plans and the following conditions:

1. Per Section 13.4G of the Unified Development Code, an approved variance will expire one year from the date of approval unless a site plan review application has been submitted or, where site plan review is not required, a building permit is obtained. The Board of Zoning Appeals may grant an extension for a period of validity for no longer than an additional 6 months, so long as the applicant applies in writing for an extension of time at any time prior to the date of expiration. No public hearing is required for approval of such extension of time.
Spring Hill Board of Zoning Appeals

TO: Spring Hill Board of Zoning Appeals
FROM: Steve Foote, AICP, Planning Director
        Austin Page, Associate Planner
MEETING: October 15, 2019
SUBJECT: BZA 757-2019 (2000 Crossings Circle – Chili’s)

BZA 757-2019: Submitted by Brinker International for 2000 Crossings Circle. The property is zoned C-5 and contains approximately 1.41 acres. The applicant requests a variance from the zoning requirements listed below from the Unified Development Code, to permit the construction of a new Chili’s restaurant according to the site plan approved by the Planning Commission. Approval of the variance will allow the existing site perimeter landscaping and parking to remain as is. Requested by Mike Gabriel.

Property Description and History: 2000 Crossings Circle is located in the Crossings of Spring Hill. The subject property is located at the main entrance of the Crossings and was previously home to O’Charleys. The subject property is zoned C-5, Regional Commercial District and all surrounding properties are also zoned C-5. The property was developed under the previous zoning ordinance and does currently comply with a number of the UDC standards for commercial property. The applicant intends to demolish the existing O’Charley’s restaurant building and rebuild a smaller 5,125 sf Chili’s restaurant in the void created by the demolition. The parking lot and perimeter landscaping surrounding the building is not be demolished. The applicant intends to keep the areas used for existing landscaping and parking as is. Landscape plantings will be added to the area per the new code and the parking lot will be improved to create a unified appearance throughout the site. This item obtained site plan approval through the Planning Commission on September 9, 2019 with an added condition that the site shall conform to all UDC standards unless a variance is approved by the Board of Zoning Appeals. Staff has had discussions with the applicant about the Board of Zoning Appeals process and to ensure a complete application submitted.

Request: The applicant is demolishing the current restaurant and constructing a new 5,125 sf restaurant. The applicant requests to utilize the remainder of the existing site as is. The site was developed under a different zoning ordinance. Applying the current ordinance to the remaining site features would increase the perimeter internal and Main Street landscape strip widths and cause other site modifications that make the proposed work infeasible. The applicant requests variances from the following applicable code sections of the UDC:

1. 10.6 - Design of Vehicle Parking Facilities / E. - Curbing and Wheel Stops.
2. 11.5 - Parking Lot Perimeter Landscape Yard
3. 11.7 - Site Landscape
4. Any other code sections necessary to allow the site plan approved by the Planning Commission

Analysis: Staff approached the site plan submittal at the Planning Commission considering this to be an amended site plan as opposed to this being ‘new’ construction from a raw site. Following various discussions at the Planning Commission meeting they approved the site plan with a condition requiring variances for any deficiencies created by the proposed demolition and construction.

The proposed project removes a vacant commercial site and provides improvements and a new restaurant. The variances requested will allow the existing landscape strips along the perimeter of the site to remain in place. However, the required landscape plantings in the UDC will be planted to provide the same screening effect, just in a narrower area. The applicant has also requested that wheel stops in certain areas be replaced with small concrete filled poles with signs on them; i.e. Handicap parking. Wheel stops are generally required in the UDC depending on the depth of the sidewalk. They have been the subject of research that attributes them to creating a tripping hazard.

Findings of Fact: The applicant has met UDC requirements regarding the U.S.P.S. First Class mailing of notices to all adjacent property owners of 2000 Crossings Circle and at least ten days in advance of the first scheduled action. City staff
has placed notice in the newspaper and a sign on the subject property. The findings listed below are staff’s response to the approval standards required in Section 13.4.E of the UDC, to be considered by the Board of Zoning Appeals prior to approving a variance.

1. Where, by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of this Code, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property it is not able to comply with the regulations as required under this Code. *The proposed demolition and reconstruction of a building in Spring Hill is not specifically addressed in the UDC. Typically, full compliance with all codes is not required until a prescribed threshold, often described as a percent of site assessed value. The subject site represents an older lot created under the former zoning ordinance. Applying the landscape areas required in the new code will have an adverse impact on the use of the site.*

**Per the applicant:** Site was developed under the old code. Enforcement of the new code would require the entire site to be demolished to comply with the new landscaping and parking requirements. Site and landscaping is in good condition and enforcement of new buffers would reduce available space for parking, drive aisles, and make project not feasible.

2. The strict application of any provision enacted under this Code would result in peculiar and exceptional practical difficulties to or exception or place undue hardship upon the owner of such property. *The subject was approved under the old zoning ordinance. The current standards of the UDC call for larger landscape and site buffers. Applying the new design standards would require a full demolition of the site (parking and landscaping) and have no appreciable improvement on the site. Such a requirement would potentially deny the applicants a reasonable use of their property.*

**Per the applicant:** Required perimeter landscape planting width under the current code is wider than the current site provides. Site would have to be completely demolished to meet new code, and there wouldn’t be enough room left for proposed development due to increased buffers.

3. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this Code. *Because all landscape quantities are being planted in the existing landscape beds there is not a negative impact on the public good. Staff does not believe that the proposal will have a significant detrimental impact on the public good or surrounding property.*

**Per the applicant:** Site landscaping and site standards are in accordance with all surrounding properties within the shopping center. Landscaping is well established and in good health and matches the existing shopping center surroundings. Allowing this site to remain as is (under old code) would not be a substantial detriment to the public good as it would maintain the consistency within the established shopping center.

**Recommendation:** If the Board of Zoning Appeals agrees with staff’s findings and determines that the requested request is acceptable, staff recommends that the Board of Zoning Appeals adopt the findings of fact found in this report and approve BZA 757-2019, a variance to the above listed sections of the UDC and any other variance needed to allow the Planning Commission approved plan to be constructed. Approval is subject to consistency with the site plan approved by the Planning Commission and the following conditions:

1. Per Section 13.4G of the Unified Development Code, an approved variance will expire one year from the date of approval unless a site plan review application has been submitted or, where site plan review is not required, a building permit is obtained. The Board of Zoning Appeals may grant an extension for a period of validity for no longer than an additional 6 months, so long as the applicant applies in writing for an extension of time at any time prior to the date of expiration. No public hearing is required for approval of such extension of time.
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<td>&quot;The Board of Zoning Appeals may authorize a variance from the strict application of this Code so as to relieve such difficulties or hardship only in accordance with the following criteria. The Board of Zoning Appeals must make findings of fact on all criteria. Please initial all that apply.&quot;</td>
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The application for a variance should provide the applicant’s evidence that the application meets or exceeds the criteria below.

1. "Where, by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the enactment of this Code, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property it is not able to comply with the regulations as required under this Code.

   Ex. site was developed under the old code. Enforcement of the new code would require the entire site to be demolished to comply with new landscaping and parking requirements. Ex. site and landscaping is in good condition and enforcement of new buffers would reduce available space for parking, drive aisles, and make project not feasible.

2. The strict application of any provision enacted under this Code would result in peculiar and exceptional practical difficulties to or exception or place undue hardship upon the owner of such property.

   For Example:
   Required perimeter landscape planting width under the current code is wider than the current site provides. Ex. site would have to be completely demolished to meet new code, and there wouldn't be enough room left for proposed development due to increased buffers.

3. "Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning map and this Code."

   Ex. site landscaping and site standards are in accordance with all surrounding properties within the shopping center. Ex. Landscaping is well established and in good health and matches the existing shopping center and surroundings. Allowing this site to remain as is (under old code) would not be a substantial detriment to the public good as it would maintain the consistency within the established shopping center.

Applicant Name/Project: **MIKE GABRIEL/CHILI'S**

Variance BOZA checklist