



**Forest Acres Zoning Board of Appeals
Minutes
September 11, 2023
City Council Chambers
6:00 PM**

I. Call to Order

Kate Usry called the meeting to order at 6:00 PM.

1. **Determination of a Quorum** – There was a quorum with Shirley Fawley, Kate Usry, Will Owens, and Jesse Smith. Pete Balthazor and Robin O’Neal were absent. John Kososki has elected not to seek reappointment and was absent. Shaun Greenwood, City Administrator, and Keith Linder, Building Official, were present. Mr. Greenwood noted that the press and the public have been notified of the meeting.
2. Ms. Usry entertained a motion to elect an acting chair for the current meeting in the absence of Ms. O’Neal. **Ms. Fawley made a motion to elect Ms. Usry. Mr. J. Smith seconded. Motion passed unanimously.**

II. Approval of Minutes

1. April 11, 2023

Mr. Owens made a motion to approve. Mr. J. Smith seconded. Minutes were approved as written.

2. June 12, 2023

Ms. Fawley made a motion to approve. Mr. Owens seconded. Minutes were approved as written.

III. New Business

1. Variance request

204 Academy Way. (Smith); TMS 14015-07-18. Requesting a variance to increase lot coverage by 5% to 30% to accommodate an accessory structure for the in-ground pool.

As the applicants were not yet present, the Board elected to return to this matter after addressing New Business item 2.

2. Sign Variance request

2005 Beltline Blvd. (Culbertson); TMS 13908-04-16. Requesting a sign variance to allow for a shopping center name sign and increase allowable sign size by 64 square feet.

The sign vendor representing the owner of the property began discussion. He acknowledged that the Forest Acres zoning ordinance does not address the issue of naming of buildings. He stated that, in this case, there is a hardship for a variance as this is an oddly shaped building with difficult visibility for signs for individual businesses in the building. He further noted that, by naming the building, we would be giving identity to the location which would overcome some of the difficulties businesses experience with getting their name out.

Mr. Greenwood offered clarity regarding the ordinance and how the city handles wall sign requests such as this. He noted that the ordinance generally assumes one business per building, and it allows for six total signs with 120 cumulative square feet. He further noted that with shopping centers, we've applied these limitations to each individual business in the shopping center. However, we've never had a situation where a shopping center name was being applied after the wall signage on a given building was established. Mr. Greenwood was asked if staff had a recommendation and noted that on zoning matters staff doesn't provide recommendations but clarifies questions around the ordinance and interpretation.

Ms. Fawley noted that this situation is a bit different from other shopping centers, which typically have a freestanding sign with the shopping center name at top and tenants below.

Ms. Fawley made a motion to grant the requested variance with the condition that the signage be placed below the roofline in keeping with the size reflected in the application. Mr. J. Smith seconded. Motion passed unanimously.

[The ZBA moved back to Item #1:

1. Variance request

204 Academy Way. (Smith); TMS 14015-07-18. Requesting a variance to increase lot coverage by 5% to 30% to accommodate an accessory structure for the in-ground pool.]

The agent for the applicant noted the history behind this request. They're building a pool with an outdoor kitchen that pushed the overall lot coverage beyond the 25% in the ordinance. The applicant's agent stated that there is a hardship because the lot (which is R-1) is less than the 15,000 square feet that is the minimum for R-1 and is more in line size-wise with R-2 lots. The ordinance allows 30% lot coverage in R-2. So, they aren't able to add what they feel is a reasonable addition to overall lot coverage due, primarily, to the nonconforming size of the lot.

Ms. Fawley began looking at the requirements for hardship as outlined in the applicant's paperwork and questioned the use of application of R-2 conditions for claiming a hardship in an R-1 property.

Mr. Owens clarified the gross square footage overage that this would entail and clarified that the claim is that this will not negatively impact the neighborhood.

A member of the audience (Catherine Cuddy), whose father lives on the street, noted that there are stormwater/drainage issues in the backyards on the street. She's concerned that adding a swimming pool will have impact on other properties on the street, with water diversion.

Mr. Owens asked and Mr. Greenwood clarified that they can build the pool without a variance as the pool alone doesn't create them to exceed lot coverage. Mr. Greenwood noted that the builder has to take into account stormwater diversion and impacts that may have on neighbors regardless of the question of a variance. Mr. Greenwood noted that this variance application is for the outdoor kitchen area near the pool, which takes this beyond the lot coverage percentage. The pool is not in question tonight.

Ms. Cuddy asked and Mr. Lindler answered that the setback from the rear property line is 5 feet. Ms. Cuddy reiterated her concern that this will impact other properties and is not consistent with the neighborhood.

The applicant's agent noted similar projects in the area and noted that they will install gutters that will control water flow. He also noted that he hasn't seen any issues with flooding on the property and that this will not be able to be seen from the street.

Mr. Owens made a motion to approve the variance request. Mr. J. Owens seconded. The motion passed 3 – 1 (with Ms. Fawley opposed).

Mr. Greenwood noted to the ZBA that Mr. Kososki will not be seeking reappointment and that Council will soon appoint a replacement. He also noted that the City will make arrangements for required annual continuing education training in the next few months.

IV. Adjournment

Ms. Fawley made a motion to adjourn. Mr. Owens seconded. The meeting was adjourned at 6:38 P.M.

Respectfully Submitted,
Andy Smith, Assistant City Administrator/Finance Director
(Administrative support of Zoning Board of Appeals)