



**CENTERTON BOARD OF
ZONING ADJUSTMENTS
May 17, 2022 @ 6:00 PM
AGENDA**

Public comment period after the introduction of each agenda item

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES**
- 4. OLD BUSINESS**
- 5. NEW BUSINESS**
 - A. VAR22-05 Cleveland Property -Building Setback-490 Allen Rd- (Zoned A1 / 1.17 Ac / up to an 11-ft reduction in side BSB from 15-ft to 4-ft) Owner: Leandra and Patrick Cleveland (Planner: Donna Wonsower)**
 - B. VAR22-06 Cleveland Property-Building Setback-490 Allen Rd- (Zoned A1 / 1.17 Ac / up to a 23-ft reduction of side BSB from 25-ft to 2-ft and up to a 34-ft reduction front BSB from 35-ft to 1-ft) Owner: Leandra and Patrick Cleveland (Planner: Donna Wonsower)**
- 6. OTHER BUSINESS**
- 7. ANNOUNCEMENTS**
- 8. ADJOURN**

NOTE: Although every effort on the part of the Planning Dept. is made to assure every Agenda is accurate and precise, periodically, for unforeseen circumstances out of our control, items and/or public hearings appearing on this agenda may become withdrawn, request to be tabled/moved to the next agenda, or subject to change with little to no notice. Citizens are encouraged to call City Hall/Planning Dept. (479-795-2750-option 4) to verify if an item of interest remains scheduled to be heard on this date.



**BOARD OF ZONING ADJUSTMENT
MINUTES OF MEETING
MAY 17, 2022**

- 1) **CALL TO ORDER** – The meeting of the Centerton Board of Zoning Adjustment was called to order by Chairman Jeff Seyfarth at 6:01 p.m.
- 2) **ROLL CALL** - Those Present and answering Roll Call were Jeff Seyfarth, Amber Beale, John Sessoms, Jerry Harris, Tony Davis, Joey Ingle, Craig Langford, Devin Murphy, and Ben Lewis. Others in attendance for the city were Mayor Bill Edwards, City Attorney Brian Rabal, Planning Director Lorene Burns, Senior Planner Dianne Morrison Lloyd, City Planner Donna Wonsower, City Planner Erik Nystrom, City Engineer Alan Craighead, and Fire Marshal Paul Higginbotham.
- 3) **APPROVAL OF MINUTES** – None
- 4) **OLD BUSINESS**- None
- 5) **NEW BUSINESS**-
 - A. **VAR22-05 Cleveland Property -Building Setback**-490 Allen Rd- (Zoned A1 / 1.17 Ac / up to an 11-ft reduction in side BSB from 15-ft to 4-ft) *Owner: Leandra and Patrick Cleveland (Planner: Donna Wonsower)*

Chairman Jeff Seyfarth introduced the item to the Board of Zoning Adjustments.

Leandra Cleveland, property owner, noted the addition's location on the property and briefly summarized the request.

City Planner Donna Wonsower gave the staff report on the proposed variance, including the following:

- Concurrent Floodplain Permit under review, including boundaries of Floodplain, Floodway, and McKissic Creek
- Location of addition in proximity to setback and Flood zones

John Sessoms made a motion to open the public hearing with a 2nd from Joey Ingle. All were in favor and the motion carried.

There was no public comment.

John Sessoms made a motion to close the public hearing with a 2nd from Devin Murphy.

All were in favor and the motion carried.

Chairman Seyfarth asked the Board to look at the following items, reading both the Applicant's Response and Staff Finding for each item.

- **Preservation of Intent- MIXED** – The Board of Zoning Adjustment discussed FEMA regulations such as a CLOMR / LOMR, the process for pre-existing structures, as well as building requirements within the Floodplain / Floodway. Downstream impact, previous damage to the structure prior to 2016 and flood improvements were also discussed. Compliance with FEMA regulations was noted as complying with intent.
- **Exceptional Circumstances- YES** – The Board of Zoning Adjustment was in agreement that the property has exception and unusual circumstances unique to the property due to the large amount of Floodplain and Floodway.

The proposed renovation was briefly discussed, including base flood elevations of the proposed addition and existing structure. It was noted that the current structure is not habitable and that health & safety items did not count towards the 50% maximum renovation total. The Board clarified that Leandra was aware of the Flood issues at purchase of the property.

- **Hardship Not Grounds for Variance- NO** – The Board of Zoning Adjustment agreed that the Floodplain and Floodway are not the results of the actions of the applicant, but that proposing to expand the residential use on the property creates an induced hardship.

The Board discussed the buildable area within the area west of the existing structure within the setbacks. Leandra stated that if she has to build there, she will have to give up either the addition or the accessory dwelling unit for her mother. It was determined that the proposed addition would likely fit within the buildable space after reviewing the survey.

Leandra stated that neither going up or connecting the garage are viable due to the 50% improvement limitation.

- **Preservation of Property Rights- NO** – The Board of Zoning Adjustment noted that there is a portion of the property to the west of the existing structure where an addition could be constructed without the need for a variance.
- **Absence of Detriment- MIXED** – The Board of Zoning Adjustments noted Floodplain / Floodway impact but also stated that if the addition were constructed within the setbacks, a variance would not be necessary, and the project would not be before them. The Board also noted that the property line the addition will be encroaching towards will likely remain a lift station.

Leandra stated that without unless she received the ADU variance, she will be unable to build a space for her mother to move in with her even if she is able to build an addition

within the setbacks. There was discussion about the proposed ADU and its relation to the addition. Leandra and her mother noted that there is no proposed expansion of the footprint of the garage structure.

There was discussion about tabling the request for the addition. Joey Ingle stated that each variance request should be considered separately. City Attorney Brian Rabal agreed and confirmed that the request could be either withdrawn or tabled.

Chairman Jeff Seyfarth asked if any of the Board had any questions before a motion was made.

John Sessoms made a motion to table **VAR22-05 Cleveland Property -Building Setback-490 Allen Rd- (Zoned A1 / 1.17 Ac / up to an 11-ft reduction in side BSB from 15-ft to 4-ft) to the June 7th, 2022 meeting** with a 2nd from Joey Ingle to be heard on 6/7/2022. Senior Planner Dianne Morrison Lloyd did a roll call vote. All members voted “Yes,” and the motion passed with eight (8) “Yes” votes and zero (0) “No” votes.

B. VAR22-06 Cleveland Property-Building Setback-490 Allen Rd- (Zoned A1 / 1.17 Ac / up to a 23-ft reduction of side BSB from 15-ft to 2-ft and up to a 34-ft reduction front BSB from 35-ft to 1-ft) Owner: Leandra and Patrick Cleveland (Planner: Donna Wonsower)

Chairman Jeff Seyfarth introduced the item to the Board of Zoning Adjustments.

There was a brief discussion regarding a typo in the side building setback heading, which should have read 15’ rather than 25’.

Leandra Cleveland, property owner, presented a brief summary of the request to convert the existing non-conforming garage structure into an Accessory Dwelling Structure as a residence for her mother

City Planner Donna Wonsower gave the staff report on the proposed variance, including the following:

- Centerton Non-conforming Code, including changes to uses and increasing non-conformity
- Concurrent Floodplain Permit under review, including boundaries of Floodplain, Floodway, and McKissic Creek
- Location of addition in proximity to setback, ROW, and Flood zones
- Review of property photos

The construction of the garage structure was briefly discussed, including whether any residential was intended with initial construction. It was built prior to annexation, and prior to the Google Street View 2013.

Joey Ingle made a motion to open the public hearing with a 2nd from John Sessoms. All were in favor and the motion carried.

Bobette Joyner, Leandra Cleveland’s mother, currently lives in Bentonville. She stated that they have had someone look at the structure who believes it should be easily converted to an accessory dwelling unit to live close to her daughter.

Joey Ingle made a motion to close the public hearing with a 2nd from Tony Davis. All were in favor and the motion carried.

Chairman Seyfarth asked the Board to look at the following items, reading both the Applicant's Response and Staff Finding for each item.

- **Preservation of Intent- MIXED** – After extensive discussion of FEMA flood requirements, past flooding history of the property, plans for the structure, and the non-conforming code as applicable to the existing garage structure, the Board of Zoning Adjustments was mixed, though the Board noted that there appeared to be an intent for a residential unit in the structure and that FEMA compliance would be required with any structural changes.
- **Exceptional Circumstances- YES** – The Board of Zoning Adjustment was in agreement that the property has exception and unusual circumstances unique to the property due to the large amount of Floodplain and Floodway.
- **Hardship Not Grounds for Variance- MIXED** – The Board of Zoning Adjustment agreed that the Floodplain and Floodway are not the results of the actions of the applicant, but that proposing to expand the residential use on the property creates an induced hardship.
- **Preservation of Property Rights- NO** – There was discussion relating to FEMA regulations. The Board of Zoning Adjustment noted that there is a portion of the property to the west of the existing structure where an addition could be constructed without the need for a variance.
- **Absence of Detriment- NO** – The Board of Zoning Adjustments agreed that a residential structure is not in the public interest to allow in such close proximity to the adjacent street ROW and that if allowed has the potential to create a higher tax burden to citizens if condemned for utility corridor relocation.

Chairman Jeff Seyfarth asked if any of the Board, staff, or applicant, had any questions. Paul Higginbotham, Fire Marshall, noted that because the occupancy would be changing the building would need to be brought up to current fire code. He stated that he would provide comments once he sees plans.

John Sessoms made a motion to approve **VAR22-06 Cleveland Property-Building Setback-490 Allen Rd- (Zoned A1 / 1.17 Ac / up to a 23-ft reduction of side BSB from 15-ft to 2-ft and up to a 34-ft reduction front BSB from 35-ft to 1-ft) Existing Garage Structure to be remodeled as an Accessory Dwelling Unit** with a 2nd from Joey Ingle. Senior Planner Dianne Morrison-Lloyd did a roll call vote. The motion failed with five (5) "No" votes and four (4) "Yes" votes.

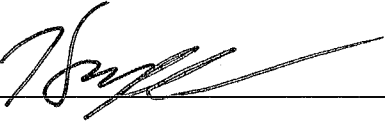
6) OTHER BUSINESS- None.

7) **ANNOUNCEMENTS-**

- Next Meeting of Board of Zoning Adjustments Meeting 6/7/2022

8) **ADJOURN-**

Joey Ingle made a motion to Adjourn the meeting with a 2nd from John Sessoms. All Board members voted in favor and the motion carried at 7:17 PM.



**Jeff Seyfarth – Chairman
Centerton Board of Zoning Adjustment**

Minutes Prepared by:
Donna Wonsower
City Planner