



**BOARD OF ZONING ADJUSTMENT  
JANUARY 19, 2021 @ 6:00 PM  
AGENDA**

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*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. {PUBLIC HEARING} VAR20-09 DIAMOND ESTATES LOT 9, ALEXANDER PROP –1221 Hope St  
–11' Encroachment of Covered Deck into Existing 25' Rear Yard Setback (R-2 / 0.20 Ac)**
- 6. OTHER BUSINESS**
- 7. ANNOUNCEMENTS**
  - A. Next BZA Meetings: 02/02/2021 @ 6:00 PM**
- 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for unforeseen circumstances out of our control, items and/or public hearings appearing on this agenda may become withdrawn, request to be tabled/moved to the next agenda, or subject to change with little to no notice.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  
JANUARY 19, 2021**

- (1) CALL TO ORDER** - The Zoom Virtual meeting of the Centerton Board of Zoning Adjustment was called to order by Chairman Jeff Seyfarth at 6:00 p.m.
  
- (2) ROLL CALL** - Those Present and answering Roll Call were Jeff Seyfarth, Joey Ingle, Devin Murphy, Jerry Harris, Amber Beale, John Sessoms, Ben Lewis, and Tony Davis. Craig Langford was absent. Others in attendance for the City were Mayor Bill Edwards, City Attorney Brian Rabal, City Clerk/Recorder Todd Wright, Planning Director Lorene Burns, City Planner Dianne Morris Lloyd, Senior Planner Nicole Gibbs, City Planner Donna Wonsower, Director of Public Works Rick Hudson, Centerton Utilities Director Frank Holzkamper and Fire Marshal Paul Higginbotham. City Engineer John Wary was not present.
  
- (3) APPROVAL OF MINUTES** - None
  
- (4) OLD BUSINESS**- None
  
- (5) NEW BUSINESS**-
  - A. {Public Hearing} VAR20-09: Diamond Estates Lot 9, Alexander Property – 1221 Hope Street – 11’ Encroachment of Covered Deck into Existing 25’ Rear Yard Setback (R-2 / 0.20 Acres) -**

Chairman Jeff Seyfarth introduced the item to the Board.

**John Sessoms made a motion to Open the Public Hearing, with a 2<sup>nd</sup> from Joey Ingle. All Board members voted in favor and the motion carried.**

Doug Albert, the builder, addressed the BZA, stating that the homeowners are requesting a variance for a covered deck extension, which will protrude 10’ from the house, into the rear yard. He said the rear yard has a pretty severe slope to it, and this deck extension would give them more of an ability to use their yard.

City Planner Dianne Morrison Lloyd addressed the BZA, giving a brief overview of the request. She said the house is currently built Setback to Setback, covering that entire area. She said there is a 10' UE that was platted with this lot, so the request does not require any vacation of that easement. She said after the Final Plat was approved, Carrol Electric filed for a 20' easement at the back of the property for their overhead power line. She said Carrol Electric requires that no permanent structures be within 15' of the overhead power lines, and they will be sending someone out to take a measurement regarding this request.

Chairman Seyfarth opened the meeting for Public Comment.

**Public Comments -**

**John Bowden – Adjacent Property Owner** – Mr. Bowden addressed the BZA and provided an e-mail, expressing concern with the fact that this home is already close to the fence line, which backs up to his pasture. He was concerned with already having found items that could be considered harmful to his horses in his pasture. His recommendation was to reduce the size of the deck to 5', rather than 10'. He did understand and respected the wishes of the homeowner.

**Barbara Alexander, the property owner at 1221 Hope Street** – Mrs. Alexander explained her reasoning for the deck extension request, due to her age, health, and the grade of the rear yard. She said they purchased the land/home as a retirement home, prior to the land being graded, and so they were unaware of the slope that would be in the rear-yard. She said this deck extension would give her a larger, flat and safe area to enjoy more of her rear yard. She said she is aware of the horses in the pasture behind her home and would never do anything to harm them. She said that is one of the reasons they purchased this particular property.

Chairman Jeff Seyfarth asked if there were any other public comments. There were none.

**Joey Ingle made a motion to Close the Public Hearing, with a 2<sup>nd</sup> from Amber Beale. All Board members voted 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- NO** - After discussion, the Board was in agreement that the Intent **is not** being preserved in this case, as this could interfere with the Carrol Electric easement. There was discussion about requirements for a detached deck versus this requested permanent covered deck.
- **Exceptional Circumstances- NO** - The Board was in agreement that there **is not** an Exceptional Circumstance in this case, regarding the grading of the rear yard, as

it existed at the time of construction. Tony Davis pointed out that he fences was already encroaching into the easement, and he had no issue with this request.

- **Hardship Not Grounds for Variance- NO** - After discussion, the Board was in agreement that there is no hardship in this case.
- **Preservation of Property Rights- NO** - After discussion, the Board was in agreement that property rights **are** being preserved for the property owners in this case.
- **Absence of Detriment- NO** - After discussion about surrounding properties, the Board was in agreement that this application could create **detriment** to adjacent properties.

Chairman Jeff Seyfarth asked if there were any more questions or comments from the Board or Staff.

Joey Ingle said he felt getting into the UE could create a detriment in the future, in this case, and sets a precedent for the future.

John Sessoms recommended looking at a redesign, as a possible compromise.

Tony Davis clarified that a detached wooden deck would not need to come to the BZA. Lorene Burns said a detached wooden deck could be built within 5' and would still need to be approved by the Building Safety Dept. She said they could extend their current deck 5'. Davis repeated that the fence line already encroaches into the UE.

Dianne Morrison Lloyd said that Carrol Electric stated that "the request to reduce the 25' Building Setback by 11' would leave 14' to the rear property line. If the location of our line on the Plat is accurate, it may be possible that the 15' of clearance may be met". Lloyd said they said Carrol said they would have someone go out and measure, but she has not heard back from them today.

Doug Albert said the ROW Easement Agreement states that "we further agree that no structure shall be erected within 15' of the finally constructed center-line". He said if the current poles are on the center-line. They are still less than 15' from there.

Rick Hudson stated that having corridors in both the front and rear yards really has a negative effect on people's properties. Lorene Burns said this was Carroll Electric coming in after the fact, and it happens more often than we would like. Rick Hudson agreed.

Chairman Seyfarth asked if we felt we had enough information to make a judgement at this time. Rick Hudson said he did not think we had enough information. Joey Ingle said that it is not up to us to provide that information, and that it should come from Carrol Electric.

Seyfarth said our three (3) options this evening is to Approve, Deny or Table this item, and asked Doug Albert if he would like to Table the item, to gather more information and be able to come back to the BZA at another time.

Albert said he would like to Table the item at this time and allow Carrol Electric to look at it a little closer. He also said they have some flexibility in their construction.

**Jerry Harris made a motion to Table VAR20-09: Diamond Estates Lot 9, Alexander Property – 1221 Hope Street – 11’ Encroachment of Covered Deck into Existing 25’ Rear Yard Setback (R-2 / 0.20 Acres), to give the contractor time to gather more information, with a 2<sup>nd</sup> from John Sessoms. All Board members voted in favor and the motion carried.**

**(6) ANNOUNCEMENTS-**

- **2/02/2021 – BZA Meeting @ 6:00 PM**
- **2/02/2021 – Planning Commission Meeting @ 6:00 PM (Following the BZA Meeting)**

**(7) ADJOURN-**

**Joey Ingle made a motion to Adjourn the meeting with a 2<sup>nd</sup> from John Sessoms. All Board members voted in favor and the motion carried at 6:45 PM.**



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

Minutes prepared by:  
Todd Wright