



**BOARD OF ZONING ADJUSTMENT
February 16, 2021 @ 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**
 - A. **None**
4. **OLD BUSINESS**
 - A. **VAR20-09 Lot 9 Diamond Estates, Alexander Property –1221 Hope St, 11’ Encroachment of Covered Deck into Existing 25’ Rear Yard Setback (R-2 / 0.20 Ac) – {PUBLIC HEARING HELD 01/19/2021; TABLED} DENIED**
5. **NEW BUSINESS**
6. **OTHER BUSINESS**
7. **ANNOUNCEMENTS**
 - A. **Next BZA Meeting: 03/02/2021 @ 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for unforeseen circumstances out of our control, items and/or public hearings appearing on this agenda may become withdrawn, request to be tabled/moved to the next agenda, or subject to change with little to no notice.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
FEBRUARY 16, 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 Craig Langford. Tony Davis 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 and City Engineer John Wary.
- (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) – (Tabled from 01/19/2021)

Chairman Jeff Seyfarth introduced the item to the Board.

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

The applicant Mrs. Barbara Alexander addressed the Board, stating that they did get a response from Carrol Electric, with the latest approved layout. She said they really do want to attach this deck extension to the back of their house. She said both of her neighbors have provided her with letters in support. She explained her reasoning for the deck extension request, due to her age, health, and the grade of 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 it would also be beneficial in cases of inclement weather. She said she understood that there is not enough space in the rear yard for this request to fit within Code Requirements, but would appreciate the understanding of the Board.

Chairman Seyfarth opened the meeting for Public Comment.

Public Comments - None

Joey Ingle made a motion to Close the Public Hearing, with a 2nd from Jerry Harris. All Board members voted in favor and the motion carried.

City Planner Dianne Morrison Lloyd addressed the BZA, stating that we did receive a letter from Carrol Electric, stating that they would approve no more than 5' into their Powerline Easement, ensuring that no structures are within 15' of the centerline of their facilities. She said this would allow for a 9'6" deck, with a 6" overhang. She said if approved for encroachment into the UE, as well as the building setback, it would set precedent, as the homes on either side of this property also have sloping yards. She said nothing else has changed with the request, since it was tabled at the previous meeting, other than they are requesting 10-ft encroachment instead of 11-ft. She said if they were to request a form of deck/patio that was not attached to the house, there would be no need for a Variance Request.

John Sessoms asked for clarification that the only difference this time is 1' less of encroachment, as well as a Letter of Approval from Carrol Electric. Lloyd said that is correct.

Joey Ingle asked how much they would be encroaching into the Building Setback. Lloyd said the home was built to the Setback Line. So it would be encroaching 10' into the Building Setback. John Sessoms said that we discussed last time that the Setback Line was at the back door to the home. Joey Ingle agreed.

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** – Joey Ingle said the intent of the Zoning Code is to not have the encroachment into the Building Setback. He said he doesn't know that this causes any issues for anyone in this particular case, but looking forward, this could have implications on future requests. Seyfarth said the intent is still there for a single-family dwelling, but in this case, the dwelling already takes up the entire buildable area.
- **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, and there are other properties in the area with a similar slope in the rear yard.
- **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, as there are other lots in this area, with a similar sloping rear yards.
- **Absence of Detriment- NO** - After discussion about surrounding properties, the Board was in agreement that, due to the Zoning Code maintaining consistency throughout the community, approval of this request could be found to be contrary to the public interest. Chairman Seyfarth said this would allow for one house in the neighborhood to be different than the others, in regard to the Zoning Code.

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

Joey Ingle said they still have the option of a detached deck or patio. Lloyd said we would not be having this discussion if it were just a patio or a detached deck with a pergola, etc. that is not physically attached to the house. Ingle said he thinks there are creative solutions to make this rear-yard more useable, and has a hard time with setting this precedent.

John Sessoms agreed with Ingle. He said if we approve this Variance Request, we set a precedent, changing the intent of the Zoning Code. He said we may feel differently if there was nothing else this homeowner could do. Ingle agreed.

John Sessoms made a motion, based upon the conclusions for each of our findings, to Deny the request by Barbara and Mark Alexander for up to a 10-ft reduction to the 25-ft required building setback for the R-2 SF, Medium Density Single Family Residential Zone to 15-ft for the Diamond estates Phase 1 of Lot 9, with a 2nd from Joey Ingle. All Board members voted in favor, except for Jerry Harris, who voted NO, and the motion carried.

(6) ANNOUNCEMENTS-

- 3/02/2021 – BZA Meeting @ 6:00 PM
- 3/02/2021 – Planning Commission Meeting @ 6:00 PM (Following the BZA Meeting)

(7) ADJOURN-

Craig Langford made a motion to Adjourn the meeting with a 2nd from Joey Ingle. All Board members voted in favor and the motion carried at 6:26 PM.



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

Minutes prepared by:
Todd Wright